

her unemployment and should include information as to:

- (a) Education;
- (b) Occupations prior and subsequent to service;
- (c) Places of employment and reasons for termination;
- (d) Wages received;
- (e) Number of seizures.

(4) Upon completion of this survey and current examination, the case should have rating board consideration. Where in the judgment of the rating board the veteran's unemployability is due to epilepsy and jurisdiction is not vested in that body by reason of schedular evaluations, the case should be submitted to the Director, Compensation and Pension Service.

[29 FR 6718, May 22, 1964, as amended at 40 FR 42540, Sept. 15, 1975; 41 FR 11802, Mar. 18, 1976; 43 FR 45382, Oct. 2, 1978; 54 FR 4282, Jan. 30, 1989; 54 FR 49765, Dec. 1, 1989; 55 FR 154, Jan. 5, 1990; 56 FR 51663, Oct. 16, 1991; 57 FR 24364, June 9, 1992; 70 FR 76306, 75309, Dec. 20, 2005; 73 FR 54693, 54705, Sept. 23, 2008; 73 FR 69654, Nov. 19, 2008; 76 FR 78823, 78824, Dec. 20, 2011; 79 FR 2099, 2100, Jan. 13, 2014]

(38 U.S.C. 1155)
EFFECTIVE DATE NOTE: 76 FR 78823, 78824, Dec. 20, 2011, amended this section, effective Jan. 19, 2012; 79 FR 2099, 2100, Jan. 13, 2014, amended paragraph (4) under the heading Epilepsy and Unemployability, effective Jan. 13, 2014.

Moyer v Derwinski (1992) 2 Vet App 289
Parker v Nicholson (2006, US) 2006 US App Vet Claims LEXIS 769
Goher v Nicholson (2007, US) 2007 US App Vet Claims LEXIS 543

MENTAL DISORDERS

§ 4.125. DIAGNOSIS OF MENTAL DISORDERS.

(a) If the diagnosis of a mental disorder does not conform to DSM-5 or is not supported by the findings on the examination report, the rating agency shall return the report to the examiner to substantiate the diagnosis. Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5), American Psychiatric Association (2013), is incorporated by reference into this section with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in this section, the Department of Veterans Affairs must publish notice of change in the Federal Register and the material must be available to the public. All approved material is available from the American Psychiatric Association, 1000 Wilson Boulevard, Suite 1825, Arlington, VA 22209-3901, 703-907-7300, <http://www.dsm5.org>. It is also available for inspection at the Office of Regulation Policy and Management, Department of Veterans Affairs, 810 Vermont Avenue NW, Room 1068, Washington, DC 20420. It is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this information at

NARA, call 202-741-6030 or go to <http://www.archives.gov/federal-register/code-of-federal-regulations/ibr-publications.html>.

(b) If the diagnosis of a mental disorder changed, the rating agency shall determine whether the new diagnosis represents progression of the prior diagnosis, correction of an error in the prior diagnosis, or development of a new and separate condition. If it is not clear from the available records what the change of diagnosis represents, the rating agency shall return the report to the examiner for a determination.

[53 FR 22, Jan. 4, 1988; 61 FR 52695, 52700, Oct. 8, 1996; 79 FR 45093, 45099, Aug. 4, 2014, as confirmed at 80 FR 14308, Mar. 19, 2015]

(38 U.S.C. 1155)
EFFECTIVE DATE NOTE: 79 FR 45093, 45099, Aug. 4, 2014, revised paragraph (a), effective Aug. 4, 2014.

§ 4.126. EVALUATION OF DISABILITY FROM MENTAL DISORDERS.

(a) When evaluating a mental disorder, the rating agency shall consider the frequency, severity and duration of psychiatric symptoms, the length of remissions, and the veteran's capacity for adjustment during periods of remission. The rating agency shall assign an evaluation based on all the evidence of record that bears on occupational and social impairment rather than solely on the examiner's assessment of the level of disability at the moment of the examination.

(b) When evaluating the level of disability from a mental disorder, the rating agency will consider the extent of social impairment, but shall not assign an evaluation solely on the basis of social impairment.

(c) Neurocognitive disorders shall be evaluated under the general rating formula for mental disorders; neurologic deficits or other impairments stemming from the same etiology (e.g., a head injury) shall be evaluated separately and combined with the evaluation for neurocognitive disorders (see § 4.202).

(d) When a single disability has been diagnosed both as a physical condition and as a mental disorder, the rating agency shall evaluate it under a diagnostic code which represents the dominant (more disabling) aspect of the condition (see § 4.14).

[53 FR 22, Jan. 4, 1988; 61 FR 52695, 52700, Oct. 8, 1996; 79 FR 45093, 45099, Aug. 4, 2014, as confirmed at 80 FR 14308, Mar. 19, 2015]

(38 U.S.C. 1155)
EFFECTIVE DATE NOTE: 79 FR 45093, 45099, Aug. 4, 2014, revised paragraph (c), effective Aug. 4, 2014.

§ 4.127. INTELLECTUAL DISABILITY (INTELLECTUAL DEVELOPMENTAL DISORDER) AND PERSONALITY DISORDERS.

Intellectual disability (intellectual developmental disorder) and personality disorders are not disabilities or injuries for compensation purposes, and, except as provided in § 3.310(a) of this chapter, disability

resulting from them may not be service-connected. However, disability resulting from a mental disorder that is superimposed upon intellectual disability (intellectual developmental disorder) or a personality disorder may be service-connected.

[53 FR 22, Jan. 4, 1988; 61 FR 52695, 52700, Oct. 8, 1996; 79 FR 45093, 45100, Aug. 4, 2014, as confirmed at 80 FR 14308, Mar. 19, 2015]

(38 U.S.C. 1155)
EFFECTIVE DATE NOTE: 79 FR 45093, 45100, Aug. 4, 2014, revised this section, effective Aug. 4, 2014.
Carpenter v Brown (1993) 8 Vet App 240
Forn v Nicholson (2006, US) 2006 US App Vet Claims LEXIS 1297
Peyton v Derwinski (1991) 1 Vet App 282

§ 4.128. CONVALESCENCE RATINGS FOLLOWING EXTENDED HOSPITALIZATION.

If a mental disorder has been assigned a total evaluation due to a continuous period of hospitalization lasting six months or more, the rating agency shall continue the total evaluation indefinitely and schedule a mandatory examination six months after the veteran is discharged or released to nonbed care. A change in evaluation based on that or any subsequent examination shall be subject to the provisions of § 3.105(e) of this chapter.

[51 FR 23, Jan. 4, 1988; 61 FR 52695, 52700, Oct. 8, 1996]
(38 U.S.C. 1155)
EFFECTIVE DATE NOTE: 61 FR 52695, 52700, Oct. 8, 1996, which revised this section, became effective Nov. 7, 1996.
Peyton v Derwinski (1991) 1 Vet App 282

§ 4.129. MENTAL DISORDERS DUE TO TRAUMATIC STRESS.

When a mental disorder that develops in service as a result of a highly stressful event is severe enough to bring about the veteran's release from active military service, the rating agency shall assign an evaluation of not less than 50 percent and schedule an examination within the six month period following the veteran's discharge to determine whether a change in evaluation is warranted.

[53 FR 23, Jan. 4, 1988; 61 FR 52695, 52700, Oct. 8, 1996]
(38 U.S.C. 1155)
EFFECTIVE DATE NOTE: 61 FR 52695, 52700, Oct. 8, 1996, which revised this section, became effective Nov. 7, 1996.

§ 4.130. SCHEDULE OF RATINGS—MENTAL DISORDERS.

The nomenclature employed in this portion of the rating schedule is based upon the American Psychiatric Association's Diagnostic and Statistical Manual

of Mental Disorders, Fifth Edition (DSM-5) (see § 4.125 for availability information). Rating agencies must be thoroughly familiar with this manual to properly implement the directives in § 4.125 through § 4.129 and to apply the general rating formula for mental disorders in § 4.130. The schedule for rating for mental disorders is set forth as follows:

- 9201 Schizophrenia
- 9202 [Removed]
- 9203 [Removed]
- 9204 [Removed]
- 9205 [Removed]
- 9208 Delusional disorder
- 9210 Other specified and unspecified schizophrenia spectrum and other psychotic disorders
- 9211 Schizoaffective disorder
- 9300 Delirium
- 9301 Major or mild neurocognitive disorder due to HIV or other infections
- 9304 Major or mild neurocognitive disorder due to traumatic brain injury
- 9305 Major or mild vascular neurocognitive disorder
- 9310 Unspecified neurocognitive disorder
- 9312 Major or mild neurocognitive disorder due to Alzheimer's disease
- 9326 Major or mild neurocognitive disorder due to another medical condition or substance education-induced major or mild neurocognitive disorder
- 9327 [Removed]
- 9400 Generalized anxiety disorder
- 9403 Specific phobia; social anxiety disorder (social phobia)
- 9404 Obsessive compulsive disorder
- 9410 Other specified anxiety disorder
- 9411 Posttraumatic stress disorder
- 9412 Panic disorder and/or agoraphobia
- 9413 Unspecified anxiety disorder
- 9416 Dissociative amnesia; dissociative identity disorder
- 9417 Depersonalization/derealization disorder
- 9421 Somatic symptom disorder
- 9422 Other specified somatic symptom and related disorder
- 9423 Unspecified somatic symptom and related disorder
- 9424 Conversion disorder (functional neurological symptom disorder)
- 9425 Illness anxiety disorder
- 9431 Cyclothymic disorder
- 9432 Bipolar disorder
- 9433 Persistent depressive disorder (dysthymia)
- 9434 Major depressive disorder
- 9435 Unspecified depressive disorder
- 9440 Chronic adjustment disorder