NVLSP

SPECIAL MONTHLY COMPENSATION

Introduction

SMC is

- paid *in addition to* SC compensation
- compensates veterans for SC loss or loss of use of parts or functions
- Payments for personal inconvenience, social difficulties and severe nature of disability
- If evidence shows possible entitlement VA must consider SMC

Basic SMC Levels

A. SMC(k) –
- Loss/Loss of Use
- Aid and Attendance
- Housebound
- **Basic Information**
  a. Does not depend on amount or severity of loss/ loss of use
  b. paid in addition to disability compensation
  c. Effective 12/09, (k) is $96 for *each* loss/loss of use

- **Loss/Loss of Use of Creative Organ**
  a. Entitled to (k) if loss/loss of use of:
     i. One or both testicles
     ii. One or both ovaries
     iii. Another creative organ – used for reproduction
  b. Entitled if prior to service loss of use but loss of organ in service
  c. Entitled if Voluntary Sterilization prior to or during service, but later have SC loss of organ
  d. Entitled if loss of use secondary to SC impotence

Loss/Loss of Use of Hand or Foot

a. Entitled if loss of use of hand or foot
   i. cannot grasp or manipulate objects with hand
   ii. cannot balance or push off with foot
b. Automatically proven if:
   i. Extremely unfavorable complete ankylosis of knee (stuck in unfavorable position and cannot bend)
   ii. Complete ankylosis of two major joints in arm/leg
   iii. Shortening of leg by at least 3 ½ inches

Loss of Use Both Buttocks

Entitled if lose the use of both buttocks

i. severe bilateral damage to muscles in buttocks (must be 50% under DC 5317 for each buttock) AND
ii. cannot, *without assistance*,
iii. Rise from a seated or stooped position and maintain postural stability
iv. “Assistance” includes using one’s own hands or arms, or a special appliance

Loss of Use/Blindness in One Eye

Entitled if blind in one eye

i. only perceive light and darkness
ii. cannot recognize test letters one foot away
iii. cannot distinguish objects, hand movement or the number of fingers held up three feet away
iv. cannot perceive any light
v. eyeball removed after the eye muscles and optic nerve severed (enucleation)

Deafness in Both Ears

Entitled if deaf in both ears:

- Hearing loss in both ears rated 100%
- Exams must be conducted in VA authorized audiology clinic

Loss of Voice or Aphonia

- entitled if disability to speech organ constantly prevents them from speaking
- can receive the benefit if use a prosthetic device or non-speech organ to produce sounds

Loss of Breast Tissue

- Female vets entitled for loss of 25% or more of tissue from a single breast or both breasts in combination (including loss by mastectomy or partial mastectomy) or
- following receipt of radiation treatment of breast tissue

SMC(s) – Housebound or Total Rating Plus 60%

- **may be entitled to HB if one disability rated 100% (or vet receiving TDIU for single disability) and either:**
  a. disability or disabilities of a different body system rated at least 60%, OR
  b. permanently housebound due to SC conditions (permanently HB means substantially confined to home and it is reasonably certain disability/disabilities causing confinement will continue throughout life

Other Facts About SMC (s).

- **paid in addition to disability comp**
- As of 12/1/09: is $320 higher than monthly compensation for a 100% rating
- is $2,993 monthly for vet with no dependents
- **SMC(k) can be paid in addition to SMC(s)**

Regular Aid and Attendance Under SMC(l)

- Vets who need the regular aid and attendance of another to perform the normal functions of daily life are entitled to SMC(l)

- The need may be due to SC physical or mental disabilities

SMC(l)

- **paid instead of disability compensation under the Rating Schedule**
- **VA looks at the veteran's condition as a whole, considering**
  - Whether vet requires regular care and assistance for protection from the hazards of daily life
  - Whether w/o assistance vet can:
    i. Dress and undress
    ii. Stay clean and presentable
    iii. Feed self
    iv. Use a restroom

SMC(l)

- Bedridden vet are considered to need A&A
- Not required that Vet need *constant* A&A, only *regular* A&A
- A&A not necessarily provided by a professional (Vets who require professional held may be eligible for a higher level of SMC)

Higher SMC Levels

A. General Information

1. will not be considered for higher SMC levels until established entitlement to basic SMC
2. Higher levels paid instead of disability compensation under the Rating Schedule
3. Vet can receive SMC(k) in addition to a higher level of SMC, if SMC(k) is based on a different condition than the bases for the higher level of SMC

Levels of Loss/Loss of Use & Blindness--SMC(l) to (o)

Levels of Severity for Disability of Lower Extremity

- Loss/Loss of Use - Leg Below Knee: loss below knee or loss of use of foot
- Loss/Loss of Use - Leg Above Knee: loss/loss of use above knee, or loss with complications preventing natural knee action with prosthetic
- Loss of Leg Near Hip: loss prevents use of a prosthetic leg

Levels of Severity for a Disability of an Upper Extremity

- Loss/Loss of Use - Hand: loss below elbow or loss of use of hand
- Loss/Loss of Use - Arm Above Elbow: loss/loss of use above elbow, or loss with complications preventing natural elbow action with prosthetic
- Loss of Arm Near Shoulder: loss prevents use of prosthetic arm

Levels of Severity Visual Impairment

- 5/200: 5/200 visual acuity or worse
- Light Perception Only: the ability only to recognize light and darkness
- No Light Perception: total blindness in both eyes or enucleation

Intermediate Rates

- There are half step increases of SMC from level (l) to (o)

SMC(l)

1. **Veterans are entitled to SMC(l) if they have any of the following:**
   a. Loss/loss of use of *both* legs below knee
   b. Loss/loss of use of one leg below knee *and* loss/loss of use of one hand
   c. Vision - 5/200 in *both* eyes
   d. Need regular aid and attendance
   e. permanently bedridden

2. **Monthly payments effective 12/1/09:**
   a. $654 higher than compensation for a 100% rating
   b. $3,327 for a veteran with no dependents

SMC(l ½)

Entitled to SMC(l ½) if:

a. Loss/loss of use of leg below the knee *and* loss or loss of use of other leg above knee
b. Loss/loss of use of leg below knee *and* loss/loss of use of arm above elbow
c. Loss/loss of use of one leg above knee *and* loss/loss of use of a hand
d. Vision - 5/200 in one eye *and* vision - light perception only in other eye

SMC(l ½)

- **Monthly payments effective 12/1/09:**
- $826 higher than compensation for a 100% rating
- $3,499 for a veteran with no dependents

SMC(m)

Entitled if:

a. Loss/LOU -- *both* hands
b. Loss/LOU -- *both* legs above knee
c. Loss/LOU -- an arm above elbow *and* loss/LOU of a leg above knee
d. Vision - light perception only in *both* eyes
e. Loss/LOU of a leg below the knee *and* loss of the other leg near the hip
f. Loss/LOU of a leg below the knee *and* loss/LOU of an arm near the shoulder
g. Loss of a leg near the hip *and* loss/LOU of a hand
h. Vision - 5/200 in one eye *and* vision - no light perception in the other
i. Blindness in both eyes causing need for regular A&A

SMC(m)

Monthly payments effective 12/1/09:

a. $998 higher than compensation for a 100% rating
b. $3,671 for a veteran with no dependents

SMC(m ½)

Entitled of:

a. Loss/LOU of leg above the knee *and* loss of the other leg near the hip
b. Loss/LOU of leg above the knee *and* loss of arm near the shoulder
c. Loss/LOU of arm above the elbow *and* loss of a leg near the hip
d. Loss/LOU of hand *and* loss/LOU use of arm above elbow
e. Vision - light perception only in one eye *and* vision - no light perception in the other eye

SMC(m ½)

Monthly payments effective 12/1/09:

a. $1,250 higher than compensation for a 100% rating

b. $3,923 for vet with no dependents

SMC(n)

Entitled if:

a. Loss/LOU *both* arms above elbow
b. Loss/LOU of hand *and* loss of an arm near the shoulder (amputation required)
c. Loss of *both* legs near the hip (amputation required)
d. Loss of a leg near the hip *and* loss of an arm near the shoulder (amputation required)
e. Vision - no light perception in *both* eyes

SMC(n)

Monthly payments effective 12/1/09:

- $1,503 higher than compensation for a 100% rating
- $4,176 for a veteran with no dependents

SMC(n ½)

Entitled if:

- Loss/LOU of arm above the elbow *and* loss of an arm near the shoulder
- **Monthly payments effective 12/1/09**
  - $1,748 higher than compensation for a 100% rating
  - $4,421 for vet with no dependents

SMC(o)

Entitled if:

- Loss of *both* arms near shoulder
- 2 or more conditions entitling them to SMC(l) through (n) if no condition considered 2x
- Deafness both ears rated at least 60% (at least one ear is SC) *and* SC blindness with vision in both eyes no better than 5/200
- Total SC deafness in 1 ear or deafness in both ears rated at least 40% (at least 1 ear SC) *and* SC with both eyes having only light perception or worse
- Paraplegia
- Helplessness

SMC(o)

Monthly payments effective 12/1/09:

- $1,994 higher than compensation for a 100% rating
- $4,667 for a veteran with no dependents

Additional Disabilities that Increase the Level of SMC

Vet w/ SC disabilities separate from conditions that entitle them to (l) through (n ½) may be entitled to increased SMC

- If separate disabilities combine to 50% - 90% INCR half step
- If separate disabilities combine to 100%, INCR full step
- No INCR above SMC(o)
- Separate disabilities must involve different body parts or systems than disabilities that create entitle them to (l) through (n ½)

- may be entitled to higher SMC, depending on degree of disability, if blind in both eyes and deaf or have loss/LOU of a hand or foot

- Loss/LOU of 3 extremities entitles vet to next higher of SMC

SMC(r-1)

Requirements:

i. Entitled to SMC(o), AND
ii. Meet requirements for Regular A&A under SMC(l)

Monthly payments effective 12/1/09:

i. $3,996 higher than compensation for a 100% rating
ii. $6,669 for a veteran with no dependents

SMC(r-2) Special Aid and Attendance

Requirements:

i. Entitled to SMC(o),
ii. Meet requirements for Regular A&A under SMC(l)
iii. Require licensed health care professional (or someone under the supervision of a professional) to provide personal health care services everyday in home

Monthly payments effective 12/1/09:

i. $4,997 higher than 100% schedular rating
ii. $7,650 for a veteran with no dependents

The SMC Formula

- can be used to determine the proper rate of SMC when there is a combination of loss/LOU of hands and feet, or vision impairment involving both eyes.
- should help determine the proper SMC rate between SMC(l) and SMC(o)
- helps advocates understand how various levels of SMC assigned.

The SMC Formula

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- WARNING: does not cover all possible entitlements to SMC—there are additional entitlements to SMC such as combined deafness and blindness that occur rarely and are not covered by formula
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The SMC Formula

- First, think in divisions of three. For example:

- SMC at levels (l) through (o) generally involve:
  - anatomical loss (amputation) or LOU of a lower extremity at three levels,
  - anatomical loss (amputation) or LOU of an upper extremity at three levels, or
  - visual impairment at three levels

The SMC Formula

- Lower Extremity - 3 levels of disability used to evaluate higher levels of loss/LOU:
  - (1) loss/LOU of leg below knee (anatomical loss below knee or LOU of foot);
  - (2) loss/LOU of leg above knee (anatomical loss above knee or LOU at a level, or with complications preventing natural knee action with prosthesis in place); or
  - (3) loss of the leg near the hip (anatomical loss so near hip as to prevent use of prosthetic appliance

The SMC Formula

Upper Extremity -- 3 levels of disability used to evaluate the higher levels of Loss/LOU:

(1) loss/LOU of hand (anatomical loss below the elbow or LOU of hand); or

(2) Loss/LOU of arm above elbow (anatomical loss above elbow or LOU of arm at a level, or with complications preventing natural elbow action with prosthesis in place); or

(3) loss of arm near shoulder (anatomical loss so near shoulder as to prevent use of a prosthetic appliance)

The SMC Formula

Visual Impairment --3 levels of disability used to evaluate higher levels of SMC:

(1) - 5/200 (5/200 visual acuity or less);

(2) light perception only (blindness having light perception only); or

(3) no light perception (blindness w/o light perception in both eyes or enucleation (removal) of the eyes)

The SMC Formula

- Formula is based on a <u>point total</u>.
- Even point totals (2, 4, 6, 8) correspond to SMC (l), (m), (n), and (o).
- Odd point totals (3,5,7) correspond to the intermediate SMC rates – SMC (l ½), (m ½), and (n ½).
- Once 8 points (entitlement to SMC(o)) has been awarded, the formula should not be used.

The SMC Formula

- SMC (l) = 2 points
- SMC (l ½) = 3 points
- SMC (m) = 4 points
- SMC (m ½) = 5 points
- SMC (n) = 6 points
- SMC (n ½) = 7 points; and
- SMC (o) = 8 points

The SMC Formula

- First Step: Determine if a combination of loss/LOU of
  (1) both hands/arms;
  (2) both feet/legs;
  (3) a hand/arm and a foot/leg or
  (4) visual impairment of at least 5/200 both eyes.

- If there is a combination, then start assigning point totals.
- While point totals for feet/legs and hands/arms may be combined, vision impairment *may not* be combined with loss/LOU of the feet/legs or the hands/arms.

The SMC Formula

- Assign 1 point for lowest level of impairment that qualifies for SMC. For example, loss/LOU of foot, loss/LOU of hand, or 5/200 visual acuity or less is worth one point.
- Assign two points for the second level of loss/LOU or vision impairment. For example, loss/LOU of leg above knee (anatomical loss above the knee or LOU at a level, or with complications preventing natural knee action with prosthesis in place) is worth two points.

The SMC Formula

- Assign three points for the highest level of loss/LOU or vision impairment.
- Add two extra points if there is loss/LOU of both hands/arms.
- Add one extra point if additional single permanent disability or combinations of permanent disabilities independently ratable at 50 to 90 percent.
- Add two extra points if additional single permanent disability independently ratable at 100 percent apart from any consideration of TDIU

The SMC Formula

- **NOTE #1:** LOU of a hand (1 point) and light perception only in one eye (2 points) cannot be combined. This veteran would be entitled to only two SMC (k)s.

- **NOTE #2:** SMC (o) can also be assigned when 2 awards of SMC (l) through (n½). For example, if vet has LOU of both feet and also is SC for 5/200 visual acuity or less in both eyes, vet entitled to 2 awards of SMC (l). Because entitled to 2 SMC awards of (l), then automatically entitled to SMC (o).

The SMC Formula

- **NOTE #3:**
- If entitled to 2 SMC awards of SMC (l) or higher and either 1 of the combined disabilities that made the veteran entitled to SMC (l) also causes need for regular A&A (or a combination of the disabilities cause the veteran to be in need of A&A), then be entitled to SMC (r)(1).