



## **BOARD OF VETERANS' APPEALS**

**FOR THE SECRETARY OF VETERANS AFFAIRS**

IN THE APPEAL OF

**KENNY** [REDACTED]

Represented by

Gordon A. Graham, Agent

SS [REDACTED]

Docket No. 250413-534625

DATE: December 22, 2025

### **ORDER**

Entitlement to special monthly compensation based on the need of regular aid and attendance is granted.

### **FINDING OF FACT**

The evidence is at least in relative equipoise that the Veteran is so helpless as to be in need of regular aid and attendance.

### **CONCLUSION OF LAW**

The criteria for entitlement to special monthly compensation based on the need of regular aid and attendance have been met. 38 U.S.C. § 1114(l); 38 C.F.R. §§ 3.350, 3.352.

### **REASONS AND BASES FOR FINDING AND CONCLUSION**

The Veteran served on active duty in the United States Marine Corps from November 1999 to November 2003. He was awarded the Combat Action Ribbon, among other commendations, for his service.

This case comes on appeal of a March 2025 rating decision by the agency of original jurisdiction (AOJ). In April 2025, the Veteran submitted a VA Form 10182 to appeal that decision to the Board. In doing so, the Veteran elected to have his appeal adjudicated under the Direct Review docket. Notably, in April 2025 written communication the Veteran waived any additional time to elect a different Board docket. Accordingly, the Board may only consider the evidence that was of record at the time of the March 2025 rating decision. The Board may consider argument raised at any time.

**1. Entitlement to special monthly compensation based on the need of regular aid and attendance**

Special monthly compensation (SMC) at the aid and attendance rate is payable when a Veteran, due to service-connected disability, has suffered the anatomical loss or loss of use of both feet or one hand and one foot, or is blind in both eyes, or is permanently bedridden or so helpless as to be in need of regular aid and attendance. *See* 38 U.S.C. § 1114(l); 38 C.F.R. § 3.350(b).

The following will be accorded consideration in determining the need for regular aid and attendance: inability of a claimant to dress or undress himself, or to keep himself ordinarily clean and presentable; frequent need of adjustment of any special prosthetic or orthopedic appliances which by reason of the particular disability cannot be done without aid; inability to feed himself through the loss of coordination of upper extremities or through extreme weakness; inability to attend to the wants of nature; or incapacity, physical or mental, which requires care or assistance on a regular basis to protect him from hazards or dangers incident to his daily environment.

It is not required that all of the above disabling conditions be found to exist before a favorable rating may be made. The particular personal functions that a Veteran is unable to perform should be considered in connection with his condition as a whole. It is only necessary that the evidence establish that a Veteran is so helpless as to need regular aid and attendance, not that there is a constant need. A status of “bedridden” will be a proper basis for the determination. However, “bedridden” must represent a condition which, through its essential character, actually requires that the Veteran remain in bed. The fact that a Veteran has voluntarily taken to bed

or that a physician has prescribed rest in bed for the greater or lesser part of the day to promote convalescence or cure will not suffice. *See* 38 C.F.R. § 3.352(a).

The determination of need may not be based solely upon an opinion that his condition is such as would require him to be in bed. They must be based on the actual requirement of personal assistance from others. *Id.*

Here, the Veteran's VA treatment records demonstrate that the Veteran is enrolled in the VA Family Caregiver Assistance Program. His spouse has been certified as his home caregiver.

Under the VA Family Caregiver Assistance Program, the Veteran and his caregiver must regularly verify the Veteran's caregiving needs. VA treatment records document that the Veteran needs assistance with bathing, personal hygiene, and dressing. Specific to dressing, the Veteran's caregiver provides help with socks and shoes, as well as with braces for the Veteran's ankles, knees, and back.

The record further documented that the Veteran needs assistance with preparing meals. Because of his memory issues, related to service-connected PTSD, the Veteran has left the stove on and forgotten to go back to the kitchen. Although the Veteran is capable of feeding himself, he does not cook or prepare meals. The Veteran needs assistance with housework due to neck, back and knee pain. The Veteran also needs assistance with shopping. He cannot be around crowds and does not go to stores, aside from occasionally with his caregiver at night when there are no crowds. The Veteran cannot drive, as he becomes anxious to the point of becoming impaired. Therefore, his caregiver does all the driving.

The Veteran also needs assistance managing his medications. He does not remember to take them as needed. He has also had suicidal ideations, resulting in thoughts of taking all his medications at once. As a result, his caregiver dispenses medications.

The Veteran also submitted an October 2024 report of examination completed by a private provider. The report stated that the Veteran required assistance for essentially all his activities of daily living, to include eating or self-feeding, transferring in or out of a bed or chair, toileting, and ambulating within the home or

living area. The Board notes that not all of this information appears to be supported by the record. For example, in September 2024, VA records show the Veteran fell and injured his shoulder at home after getting dizzy while getting out of a chair. Subsequent records indicated that this was the only such fall the Veteran had experienced and that he was ambulatory with normal gait and followup medical appointments. The Veteran also declined to attend a VA examination that might verify the severity of his need for aid and attendance.

Nevertheless, the evidence already of record is at least in relative equipoise that the Veteran is in need of the regular aid and attendance of another. This is supported by the Veteran's inability to dress or undress himself or to keep himself ordinarily clean and presentable. The Veteran has frequent need of assistance in applying braces which support his stability. Further, due to the severity of his PTSD symptoms, he requires care or assistance on a regular basis to protect him from hazards or dangers incident to his daily environment, to include dangers related to preparing his own meals and self-administration of medications.

As a result, the Board finds that entitlement to special monthly compensation based on the need of regular aid and attendance is granted.



---

B. D. WATSON  
Veterans Law Judge  
Board of Veterans' Appeals

Attorney for the Board

M. Giaquinto

*The Board's decision in this case is binding only with respect to the instant matter decided. This decision is not precedential and does not establish VA policies or interpretations of general applicability. 38 C.F.R. § 20.1303.*