



BOARD OF VETERANS' APPEALS

FOR THE SECRETARY OF VETERANS AFFAIRS

IN THE APPEAL OF

Represented by
Gordon A. Graham, Agent

Docket No. 260216-643731
Advanced on the Docket

DATE: July 24, 2026

ORDER

Entitlement to a higher level of special monthly compensation (SMC) at the intermediate rate specified under 38 U.S.C. § 1114(p) is granted, subject to the applicable laws and regulations governing the payment of monetary benefits.

FINDING OF FACT

1. As of May 2, 2023, the Veteran has been in receipt of regular aid and attendance due to his service-connected coronary artery disease (CAD).
2. As of August 10, 2023, the Veteran has been in receipt of a 60 percent rating for diabetic nephropathy.

CONCLUSION OF LAW

The criteria for entitlement to SMC at the intermediate level, between subsection (l) and subsection (m), provided by 38 U.S.C. § 1114(p), have been met. 38 U.S.C. § 1114(p); 38 C.F.R. §§ 3.350, 3.352.

REASONS AND BASES FOR FINDING AND CONCLUSION

The Veteran served on active duty in the Air Force from June 1970 until April 1974, and in the Armed Forces from November 1978 until February 1992.

This matter comes before the Board of Veterans' Appeals (Board) on appeal from a January 2026 decision by the Department of Veterans Affairs (VA) Regional Office (RO).

In the February 2026 VA Form 10182, Decision Review Request: Board Appeal (Notice of Disagreement), the Veteran elected the Direct Review docket. Therefore, the Board may only consider the evidence of record at the time of the January 2026 rating decision. 38 C.F.R. § 20.301. If evidence was submitted during the period after the RO issued the decision, the Board did not consider it in its decision. 38 C.F.R. §§ 20.300, 20.301, 20.801.

If the Veteran would like VA to consider any evidence that was submitted that the Board could not consider, the Veteran may file a Supplemental Claim (VA Form 20-0995) and submit or identify this evidence. 38 C.F.R. § 3.2501. If the evidence is new and relevant, VA will issue another decision on the claim, considering the new evidence in addition to the evidence previously considered. *Id.* Specific instructions for filing a Supplemental Claim are included with this decision.

Lastly, the Board notes that even though the period to change AMA dockets per 38 C.F.R. § 20.202(c)(2) has not elapsed, in the cover letter to the February 2026 Notice of Disagreement, the Veteran waived the remaining time to switch appeal lanes.

The Board has reviewed all evidence of record regardless of whether it is discussed in detail in the Decision. *Newhouse v. Nicholson*, 497 F.3d 1298, 1302 (Fed. Cir. 2007) (holding the Board must only discuss the evidence which is relevant to the issues on appeal).

Entitlement to a higher level of special monthly compensation

The Veteran is in receipt of SMC pursuant to 38 U.S.C. § 1114(l) based on the need for regular aid and attendance. He maintains that he is entitled to a higher level of SMC because he has an additional, permanent disability, rated as 60 percent disabling.

SMC is available when, as the result of service-connected disability, a veteran suffers additional hardships above and beyond those contemplated by VA's schedule for rating disabilities. *See* 38 U.S.C. § 1114; 38 C.F.R. §§ 3.350, 3.352; *see also* VA Gen. Coun. Prec. 5-89 (Mar. 23, 1989) (explaining that SMC is a supplementary statutory benefit based on noneconomic factors such as personal inconvenience, social inadaptability, or the profound nature of a disability).

SMC is payable under 38 U.S.C. § 1114(l) when the 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 under the criteria set forth in 38 C.F.R. § 3.352(a). *See* 38 U.S.C. § 1114(l); 38 C.F.R. § 3.350(b).

The provisions of 38 U.S.C. § 1114(p) assign whole or half steps of increased SMC depending on the combination of disabilities shown. *See* 38 U.S.C. § 1114(p); *see also* 38 C.F.R. § 3.350(f). Increases in excess of the rate under 38 U.S.C. § 1114(l), but in no event higher than the rate under 38 U.S.C. § 1114(o), are assigned for various combinations involving anatomical loss or loss of use of the feet, legs, arms, and/or hands, as well as for various combinations involving blindness and deafness. Further, additional disability or disabilities independently rated at 50 percent or more warrants the assignment of the next highest half step rate. 38 C.F.R. § 3.350(f)(3). The disability or disabilities independently ratable at 50 percent or more must be separate and distinct and involve different anatomical segments or bodily systems from the conditions establishing entitlement under 38 U.S.C. § 1114(l) through (n) or the intermediate rate provisions of 38 U.S.C. § 1114(p). 38 C.F.R. § 3.350(f)(3).

Here, the Board finds that the Veteran is entitled to compensation at the intermediate rate between §§ 1114(l) and (m) under 38 U.S.C. § 1114(p) by operation of law. Specifically, his entitlement pursuant to § 1114(l) is based on his CAD, a legal finding made by the RO, and he has an additional disability rated at 50 percent or greater, specifically, his diabetic nephropathy rated as 60 percent disabling. 38 U.S.C. § 1114(p); 38 C.F.R. § 3.350(f)(3). Thus, the Board finds that entitlement to a higher level of SMC at the intermediate rate between §§ 1114(l) and (m) specified under 38 U.S.C. § 1114(p) is warranted from. *Id.* To this extent, the appeal is granted.



Leetra J. Harris
Veterans Law Judge
Board of Veterans' Appeals

Attorney for the Board

M.Y.R., Counsel

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.