



**DEPARTMENT OF VETERANS AFFAIRS
Veterans Benefits Administration
Regional Office**

Andrew [REDACTED]

VA File Number
[REDACTED]

**Represented By:
GORDON A GRAHAM
Rating Decision
07/14/2026**

INTRODUCTION

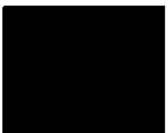
The records reflect that you are a Veteran of the Gulf War Era and Peacetime. You served in the Marine Corps from December 22, 1986 to April 30, 1991 and from October 5, 1998 to July 30, 2011. We received your supplemental claim on May 6, 2026. Based on a review of the evidence listed below, we have made the following decision(s) on your claim.

DECISION

A clear and unmistakable error was made in the level of special monthly compensation assigned from June 17, 2014, and is changed to reflect need of regular aid and attendance with additional independent 50 percent disability(ies).

EVIDENCE

- VA Form 20-0995, Decision Review Request - Supplemental Claims, received May 5, 2026.
- VA Form 21-4138, Statement in Support of Claim, received May 6, 2026.
- Section (§) 5103 Notice Response, received May 14, 2026.



- Rating Decision, received April 3, 2020 and February 9, 2026.

REASONS FOR DECISION

Whether there was a clear and unmistakable error in the level of special monthly compensation assigned.

Clear and unmistakable errors are errors that are undebatable, so that it can be said that reasonable minds could only conclude that the previous decision was fatally flawed at the time it was made. A determination that there was clear and unmistakable error must be based on the record and the law that existed at the time of the prior decision. Once a determination is made that there was a clear and unmistakable error in a prior decision that would change the outcome, then that decision must be revised to conform to what the decision should have been. (38 CFR 3.105)

The rating decision dated April 3, 2020, granted entitlement to SMC L aid and attendance under appeal retroactive to June 17, 2014. This was granted solely due to the 100 percent service-connected posttraumatic stress disorder (PTSD). Therefore, this decision was in error when it failed to grant the additional half step (P1) for the additional disabilities of 50 percent (sleep apnea or headaches).

An additional rate of special monthly compensation can be assigned when a veteran has a service connected disability(ies) that warrant special monthly compensation at a level between L and N and also has an additional single permanent disability or combination of permanent disabilities independently ratable at 50 percent or more. (38 CFR 3.350)

The records show you are also service-connected for sleep apnea, headaches with symptoms of photophobia, chronic left shoulder pain, cervical spondylosis with cervical fusion and right side radiculopathy, tinnitus, tremors of the hands and feet bilaterally, and cervical radiculopathy of the left upper extremity that have a combined evaluation of 50 percent or more and are separate and distinct from the disabilities that were used to grant special monthly compensation.

As the evidence clearly shows entitlement to an additional rate of special monthly compensation is warranted, the level of special monthly compensation is changed to reflect:

{L-1} Entitled to special monthly compensation under 38 U.S.C. 1114, subsection (l) and 38 CFR 3.350(b) on account of being so helpless as to be in need of regular aid and attendance while not hospitalized at U.S. government expense from June 17, 2014.

{P-1} Entitled to special monthly compensation under 38 U.S.C. 1114, subsection (p) and 38 CFR 3.350(f)(3) at the rate intermediate between subsection (l) and subsection (m) on account of entitlement to the rate equal to subsection (l) with additional disability(ies), sleep apnea, headaches with symptoms of photophobia, chronic left shoulder pain, cervical spondylosis with cervical fusion and right side radiculopathy, tinnitus, tremors of the hands and feet bilaterally, and cervical radiculopathy of the left upper extremity independently ratable at 50 percent or

more from June 17, 2014.

Entitlement to special monthly compensation based on aid and attendance/housebound criteria being met is granted from June 17, 2014, the date in which it has been determined your initial claim for such was received. (38 CFR 3.400, 38 CFR 3.2600, 38 CFR 3.155)

REFERENCES:

Title 38 of the Code of Federal Regulations, Pensions, Bonuses and Veterans' Relief contains the regulations of the Department of Veterans Affairs which govern entitlement to all Veteran benefits. For additional information regarding applicable laws and regulations, please consult your local library, or visit us at our website, www.va.gov.

