

§ 4.125

Epilepsy and Unemployability: (1) Rating specialists must bear in mind that the epileptic, although his or her seizures are controlled, may find employment and rehabilitation difficult of attainment due to employer reluctance to the hiring of the epileptic.

(2) Where a case is encountered with a definite history of unemployment, full and complete development should be undertaken to ascertain whether the epilepsy is the determining factor in his or her inability to obtain employment.

(3) The assent of the claimant should first be obtained for permission to conduct this economic and social survey. The purpose of this survey is to secure all the relevant facts and data necessary to permit of a true judgment as to the reason for his or 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.

(Authority: 38 U.S.C. 1155)

[29 FR 6718, May 22, 1964, as amended at 40 FR 42540, Sept. 15, 1975; 41 FR 11302, Mar. 18, 1976; 43 FR 45362, Oct. 2, 1978; 54 FR 4282, Jan. 30, 1989; 54 FR 49755, Dec. 1, 1989; 55 FR 154, Jan. 3, 1990; 56 FR 51653, Oct. 15, 1991; 57 FR 24364, June 9, 1992]

MENTAL DISORDERS

§ 4.125 Diagnosis of mental disorders.

(a) If the diagnosis of a mental disorder does not conform to DSM-IV 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.

(b) If the diagnosis of a mental disorder is 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.

(Authority: 38 U.S.C. 1155)

[61 FR 52700, Oct. 8, 1996]

§ 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

38 CFR Ch. I (7-1-04 Edition)

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) Delirium, dementia, and amnesic and other cognitive 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 delirium, dementia, or amnesic or other cognitive disorder (see § 4.25).

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

(Authority: 38 U.S.C. 1155)

[61 FR 52700, Oct. 8, 1996]

§ 4.127 Mental retardation and personality disorders.

Mental retardation and personality disorders are not diseases 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 mental retardation or a personality disorder may be service-connected.

(Authority: 38 U.S.C. 1155)

[61 FR 52700, Oct. 8, 1996]

§ 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

Department of Veterans Affairs

§ 4.130

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.

(Authority: 38 U.S.C. 1155)
[61 FR 52700, Oct. 8, 1996]

§ 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 de-

termine whether a change in evaluation is warranted.

(Authority: 38 U.S.C. 1155)
[61 FR 52700, Oct. 8, 1996]

§ 4.130 Schedule of ratings—mental disorders.

The nomenclature employed in this portion of the rating schedule is based upon the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, of the American Psychiatric Association (DSM-IV). 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:

	Rating
Schizophrenia and Other Psychotic Disorders	
9201 Schizophrenia, disorganized type	
9202 Schizophrenia, catatonic type	
9203 Schizophrenia, paranoid type	
9204 Schizophrenia, undifferentiated type	
9205 Schizophrenia, residual type; other and unspecified types	
9208 Delusional disorder	
9210 Psychotic disorder, not otherwise specified (atypical psychosis)	
9211 Schizoaffective disorder	
Delirium, Dementia, and Amnestic and Other Cognitive Disorders	
9300 Delirium	
9301 Dementia due to infection (HIV infection, syphilis, or other systemic or intracranial infections)	
9304 Dementia due to head trauma	
9305 Vascular dementia	
9310 Dementia of unknown etiology	
9312 Dementia of the Alzheimer's type	
9326 Dementia due to other neurologic or general medical conditions (endocrine disorders, metabolic disorders, Pick's disease, brain tumors, etc.) or that are substance-induced (drugs, alcohol, poisons)	
9327 Organic mental disorder, other (including personality change due to a general medical condition)	
Anxiety Disorders	
9400 Generalized anxiety disorder	
9403 Specific (simple) phobia; social phobia	
9404 Obsessive compulsive disorder	
9410 Other and unspecified neurosis	
9411 Post-traumatic stress disorder	
9412 Panic disorder and/or agoraphobia	
9413 Anxiety disorder, not otherwise specified	
Dissociative Disorders	
9416 Dissociative amnesia; dissociative fugue; dissociative identity disorder (multiple personality disorder)	
9417 Depersonalization disorder	
Somatoform Disorders	
9421 Somatization disorder	
9422 Pain disorder	
9423 Undifferentiated somatoform disorder	
9424 Conversion disorder	
9425 Hypochondriasis	