



## 38 CFR Part 4

### RIN 2900-AS37

#### Objective Evidence of Pain for Painful Scars under DC 7804

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Proposed rule.

**SUMMARY:** The Department of Veterans Affairs (VA) proposes to revise 38 CFR 4.118, diagnostic code (DC) 7804 (“Scar(s), unstable or painful”), by adding a note clarifying that VA still requires objective evidence of pain when rating a scar as painful. The inclusion of this note would align with current policy and ensure consistent application of the rating criteria.

**DATES:** Comments must be received on or before **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** You may submit comments through [www.regulations.gov](http://www.regulations.gov) under RIN 2900-AS37. That website includes a plain-language summary of this rulemaking. Instructions for accessing agency documents, submitting comments, and viewing the rulemaking docket are available on [www.regulations.gov](http://www.regulations.gov) under “FAQ.”

**FOR FURTHER INFORMATION CONTACT:** Chad Stodden and Leah Carey, Regulations Analysts, VASRD Regulations Staff, Compensation Service, Veterans Benefits Administration, (202) 461-9700.

#### **SUPPLEMENTARY INFORMATION:**

##### I. Background

As part of the revision of the VA Schedule for Rating Disabilities (VASRD), VA proposes to revise 38 CFR 4.118, DC 7804 (“Scar(s), unstable or painful”), by adding a note clarifying that rating personnel must continue to require objective evidence of pain prior to denoting a scar as painful. Since its inclusion in the VASRD, VA has always

required objective evidence of pain to assign a compensable evaluation using this DC. Starting on April 1, 1946, VA titled DC 7804 “Scars, superficial, tender and painful on objective demonstration.” See 29 FR 6718, 6748 (May 22, 1964) (adding the 1945 rating schedule, which became effective April 1, 1946, to part 4 of 38 CFR). On August 30, 2002, VA subsequently retitled DC 7804 “Scars, superficial, painful on examination.” Schedule for Rating Disabilities; the Skin, 67 FR 49590, 49596 (Jul. 31, 2002). Finally, VA changed the title again, effective October 23, 2008, to “Scar(s), unstable or painful.” Schedule for Rating Disabilities; Evaluation of Scars, 73 FR 54708, 54710 (Sep. 23, 2008). The purpose of the most recent title change was threefold. First, VA removed DC 7803, which VA had used to evaluate unstable superficial scars, and moved its evaluation criteria into DC 7804; thus, it was necessary to update DC 7804’s title to include unstable scars. *Id.*; see also 73 FR 428, 430 (Jan. 3, 2008) (proposed rule explaining the change). Second, VA removed the word “superficial” from the title of DC 7804 because VA wanted claims processors to evaluate both superficial and deep scars using this DC. *Id.*; see also 73 FR 430. Finally, VA removed the words “on examination” because “VA’s disability ratings are based on relevant medical evidence; as such, to include ‘on examination’ in the title is redundant.” 73 FR 430.

During the time preceding the 2008 publication, traditional examinations, which included an objective assessment of the condition, were most frequently used in support of claims. Indeed, most relevant medical evidence contained, and still contains, an objective aspect of the evaluation. Podder, V., Lew, V., and Ghassemzadeh, S. “SOAP Notes,” National Library of Medicine, [www.ncbi.nlm.nih.gov/books/NBK482263/](http://www.ncbi.nlm.nih.gov/books/NBK482263/) (last visited May 19, 2025); see also Lapum, J. et al. (2021), Objective Assessment. *Physical Examination Techniques: A Nurse's Guide*. <https://pressbooks.library.torontomu.ca/ippa/chapter/chapter-1/> (last visited May 19, 2025). Therefore, the use of “on examination” within the DC title would certainly

represent an unnecessary redundancy. Nevertheless, the removal of “on examination” from the title was not intended to change the substantive rating criteria so as to eliminate the requirement of objective evidence for assigning a compensable evaluation for a painful scar. On the contrary, objective evidence of pain remains a necessary component for evaluations under DC 7804, and the VA disability examination includes visual inspection with palpation of all scars. See Scars Disability Benefits Questionnaire, available at [www.benefits.va.gov/compensation/docs/scars.pdf](http://www.benefits.va.gov/compensation/docs/scars.pdf). The reason that objective evidence of pain is necessary for a compensable rating under DC 7804 is because pain on evaluation or demonstration shows persistence and chronicity of the effects of the disability upon the person's ordinary activity and is consistent with occupationally significant impairment. See 38 CFR 4.10.

## II. Required Regulatory Update

Although VA previously removed the phrase “on examination” from the DC title as an unnecessary redundancy, it is now apparent that an added note re-confirming this longstanding requirement would provide more clarity to veterans and rating personnel. The new note would specify that pain must be confirmed by objective evidence upon evaluation or demonstration. DC 7804 recognizes the impact of pain on functional impairment indicative of occupationally significant disabilities, and although VA accepts subjective evidence when appropriate, VA requires objective indications to support the subjective reports of pain to award a compensable evaluation under this DC.

In sum, VA intends this proposed change to clarify VA's longstanding policy, but does not intend to alter the substantive rating criteria nor change the way VA compensates veterans under DC 7804. Rather, this rulemaking would merely reinforce and reaffirm VA's original and longstanding requirement of objective evidence when evaluating a painful scar under DC 7804.

Executive Orders 12866, 13563, and 14192

VA examined the impact of this rulemaking as required by Executive Orders 12866 (Sept. 30, 1993) and 13563 (Jan. 18, 2011), which direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. The Office of Information and Regulatory Affairs has determined that this rule is not a significant regulatory action under Executive Order 12866. This rule is not an E.O. 14192 regulatory action because this rule is not significant under E.O. 12866.

*Economic Impact:* VA has determined that no transfers or costs are associated with this rulemaking. The changes implemented through this rulemaking will not impact benefit payments or the administration of benefits. This rulemaking will allow VA to ensure all stakeholders are better informed of the requirements and basis for compensable evaluations under DC 7804. Additionally, it will enable VA to ensure more accurate and consistent application of the rating criteria.

#### Regulatory Flexibility Act

The Secretary hereby certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (5 U.S.C. 601-612). The factual basis for this certification is based on the fact that no small entities or businesses evaluate disabilities for VA benefits. Therefore, pursuant to 5 U.S.C. 605(b), the initial and final regulatory flexibility analysis requirements of 5 U.S.C. 603 and 604 do not apply.

#### Unfunded Mandates

This proposed rule would not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more (adjusted annually for inflation) in any one year.

#### Paperwork Reduction Act

This proposed rule contains no provisions constituting a collection of information

under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3521).

List of Subjects in 38 CFR Part 4

Disability benefits, Pension, Veterans.

**SIGNING AUTHORITY**

Douglas A. Collins, Secretary of Veterans Affairs, approved this document on September 24, 2025, and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs.

**Taylor N. Mattson,**

*Alternate Federal Register Liaison Officer,*

*Department of Veterans Affairs.*

For the reasons stated in the preamble, the Department of Veterans Affairs proposes to amend 38 CFR part 4 as set forth below:

**PART 4—SCHEDULE FOR RATING DISABILITIES**

**Subpart B—Disability Ratings**

1. The authority citation for part 4 continues to read as follows:

Authority: 38 U.S.C. 1155, unless otherwise noted.

2. In § 4.118, add new note (4) to the end of the entry for diagnostic code 7804 to read as follows:

**§ 4.118 Schedule of ratings—skin.**

\* \* \* \* \*

	Rating
* * * * *	
7804 Scar(s), unstable or painful:	
* * * * *	
Note (4): Pain must be confirmed by objective evidence upon evaluation or demonstration.	
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3. Amend Appendix A to part 4 by revising the entry for diagnostic code 7804 to read as follows:

**Appendix A to Part 4—Table of Amendments and Effective Dates Since 1946**

Sec.	Diagnostic code No.	
*	*	* * * * *
	7804	Criterion July 6, 1950; criterion September 22, 1978; criterion and evaluation October 23, 2008; note 4 [EFFECTIVE DATE OF THE FINAL RULE].
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