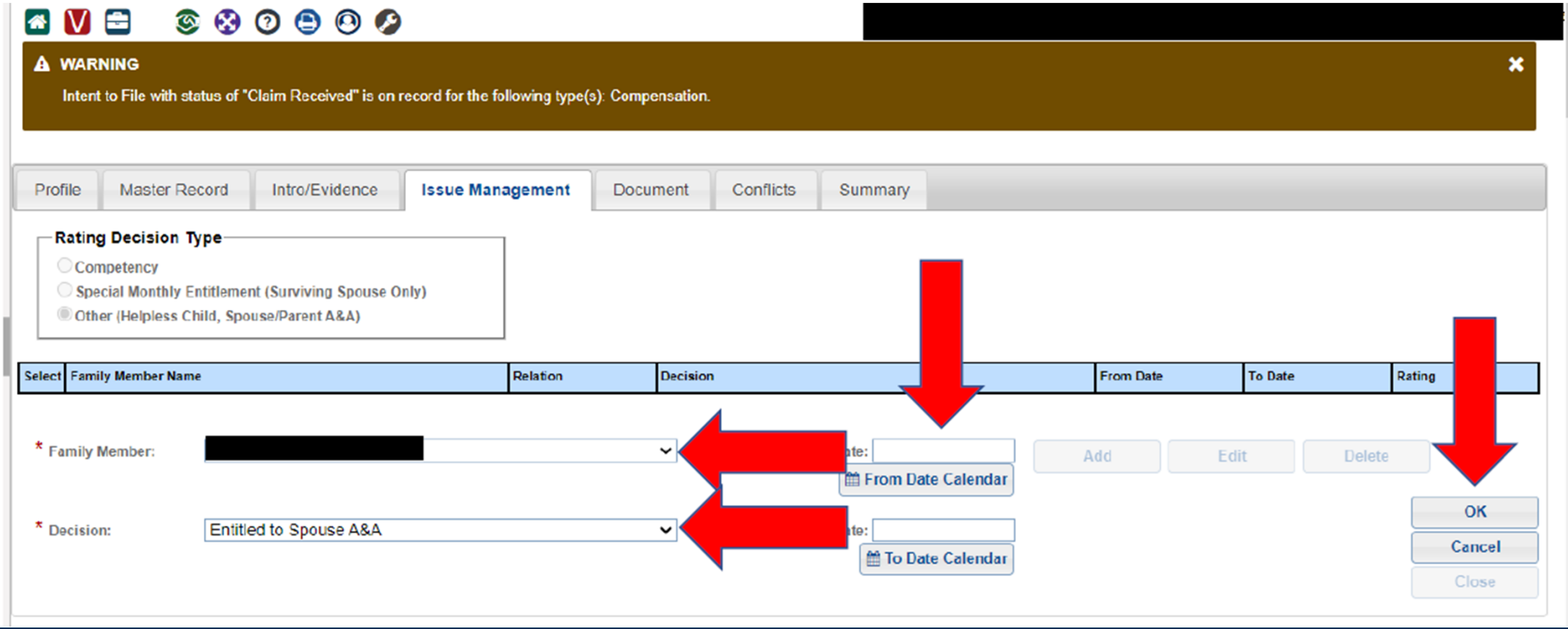
SMC Review / Higher Level SMC

U.S. Department of Veterans Affairs

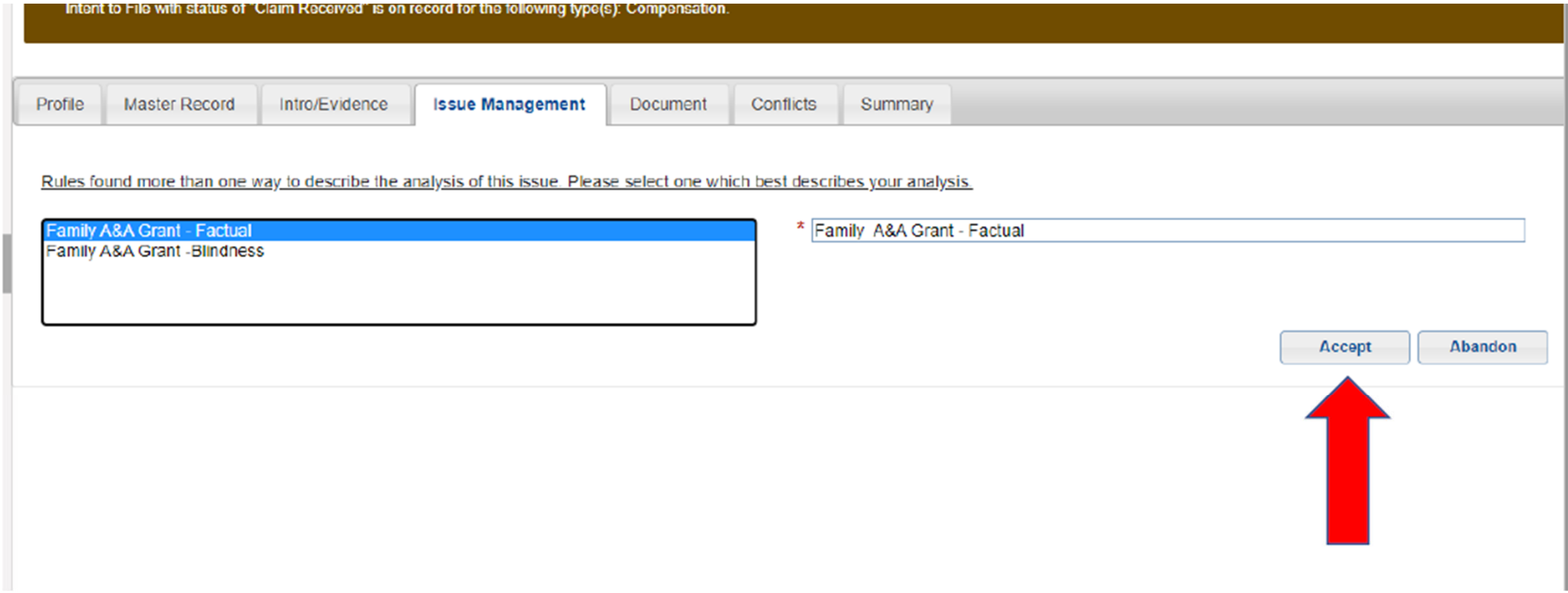
While we're on SMC…

- If the Veteran is at least 30% SC for any condition, and their spouse requires aid and attendance, VA may pay an additional rate on top of the Veteran's compensation.



Spouse Aid and Attendance

- We would evaluate A&A for the spouse on the same criteria as the Veteran (ADL care needed), and usually receive a VA Form 21-2680 in support of the claim.



Higher Level SMC: Basics

- Higher level SMC means additional need above and beyond the need for aid and attendance, SMC (L)
- There are several additional letters used above "L":
  - M, N, O, P, Q (extraordinarily rare; an older SMC), R, T (historical / discontinued), and T (new, for TBI).
  - *That is not a typo. There is the historical T and the new T.*
  - There are additional levels between letters (M½, N½, R1, R2, etc.)
  - Each step or half step means additional disability must be objectively shown
  - SMC above the "L" level requires 2nd signature by VSCM designee
  - Veteran alone basic "L" = $4,506.84; R(2)/T = $10,365.53

Higher Level SMC Reminders

- The Veteran ***must*** have either one schedular 100% condition or a 100% combined schedular evaluation with no less than SMC (L) entitlement shown to ***begin*** building additional levels of SMC.
- Generally, SMC (L) through (O) are based on levels of anatomical loss or loss of use of the extremities, hearing, or blindness.
- If a Veteran is entitled to SMC (L) through (O) and also has SMC (K) granted on another basis, they will continue to receive (K) as well.

  Example: SMC (L) for loss of both feet and SMC (K) for aphonia, the Veteran will receive SMC (L+K)

SMC L (Aid and Attendance)

- Reminder of our SMC – L scenarios:
  - Anatomical loss or LOU of both feet; *or*
  - Anatomical loss or LOU of one hand and one foot, since you're not getting a "K" for each extremity, you get "L" instead; *or*
  - Blindness in *both* eyes with visual acuity of 5/200 or less; *or*
  - Being permanently bedridden (see 38 CFR 3.352); *or*
  - Being so helpless as to need regular "aid and attendance from another person" to accomplish activities of daily living (ADLs), such as dressing, eating, bathing, transfer to / from bed, chair, wheelchair, etc.

Higher levels building on SMC L

- Higher level SMCs are created by adding half or full step increases in each level of SMC. **If each letter is a full step**, then there is the possibility of a half step in between too.

- The 7 SMCs between SMC (L) and (O), inclusive:
  - SMC (L)
  - SMC (L ½)
  - SMC (M)
  - SMC (M ½)
  - SMC (N)
  - SMC (N ½)
  - SMC (O)

Additional Half and Full Steps:

In some cases, a Veteran entitled to SMC between (L) and (O) also has service connected disabilities that are independently rated as 50 percent disabling or 100 percent disabling. The additional permanent disability would afford entitlement to the next higher intermediate rate, but not to exceed SMC (O).

Example: Veteran is SC for LOU of both feet, L spine at 40%, and 30% for PTSD. Because of the LOU of both feet, ***SMC (L)*** is warranted… and the additional separate conditions add up to an ***additional 50%***, the ***half step to SMC (L ½)*** is warranted.

Same as above, but PTSD is evaluated at 100%? The ***additional 100%*** on top of SMC (L) ***supports a full step to SMC (M).***

Half and Full Step… code P?

38 U.S. Code § 1114 - Rates of wartime disability compensation

38 USC 1114(p): *In the event the veteran's service-connected disabilities exceed the requirements for any of the rates prescribed in this section, the Secretary may allow the next higher rate or an intermediate rate, but in no event in excess of $4,667. In the event the veteran has suffered service-connected blindness with 5/200 visual acuity or less and (1) has also suffered bilateral deafness (and the hearing impairment in either one or both ears is service connected) rated at no less than 30 percent disabling,* ***the Secretary shall allow the next higher rate****, or (2) has also suffered service-connected total deafness in one ear or service-connected anatomical loss or loss of use of one hand or one foot, the Secretary shall allow the next intermediate rate, but in no event in excess of $4,667. In the event the veteran has suffered service-connected blindness, having only light perception or less, and has also suffered bilateral deafness (and the hearing impairment in either one or both ears is service connected) rated at 10 or 20 percent disabling,* ***the Secretary shall allow the next intermediate rate****, but in no event in excess of $4,667. In the event the veteran has suffered the anatomical loss or loss of use, or a combination of anatomical loss and loss of use, of three extremities,* ***the Secretary shall allow the next higher rate or intermediate rate****, but in no event in excess of $4,667. Any intermediate rate under this subsection shall be established at the arithmetic mean, rounded down to the nearest dollar, between the two rates concerned.*

https://www.law.cornell.edu/uscode/text/38/1114

SMC Step Building: L to L ½

Start with the greatest loss, and the add the next additional loss. A good starting point is loss or LOU **above or below** the **knee and elbow** (i.e., are those joints anatomically present or not, and if present, does the disability prevent natural action of that joint with a prosthesis in place?)

For example, a loss or LOU of a lower extremity ***below the knee*** and a loss / LOU of the other lower extremity ***below the knee*** meets the criteria for SMC (L) *(i.e., loss of both feet)*

However, loss or LOU of a lower extremity ***above the knee*** and loss / LOU of the other lower extremity ***below the knee*** meets the criteria for **SMC (L ½)** .

SMC L to L ½, continued

Another example: Loss or LOU of a lower extremity ***below the knee*** and a loss / LOU of the upper extremity ***below the elbow*** meets the criteria for SMC (L) *(i.e., loss of one foot and one hand).*

However, loss or LOU of a lower extremity ***above the knee*** and loss / LOU of one upper extremity ***below the elbow*** meets the criteria for **SMC (L ½)** .

OR:

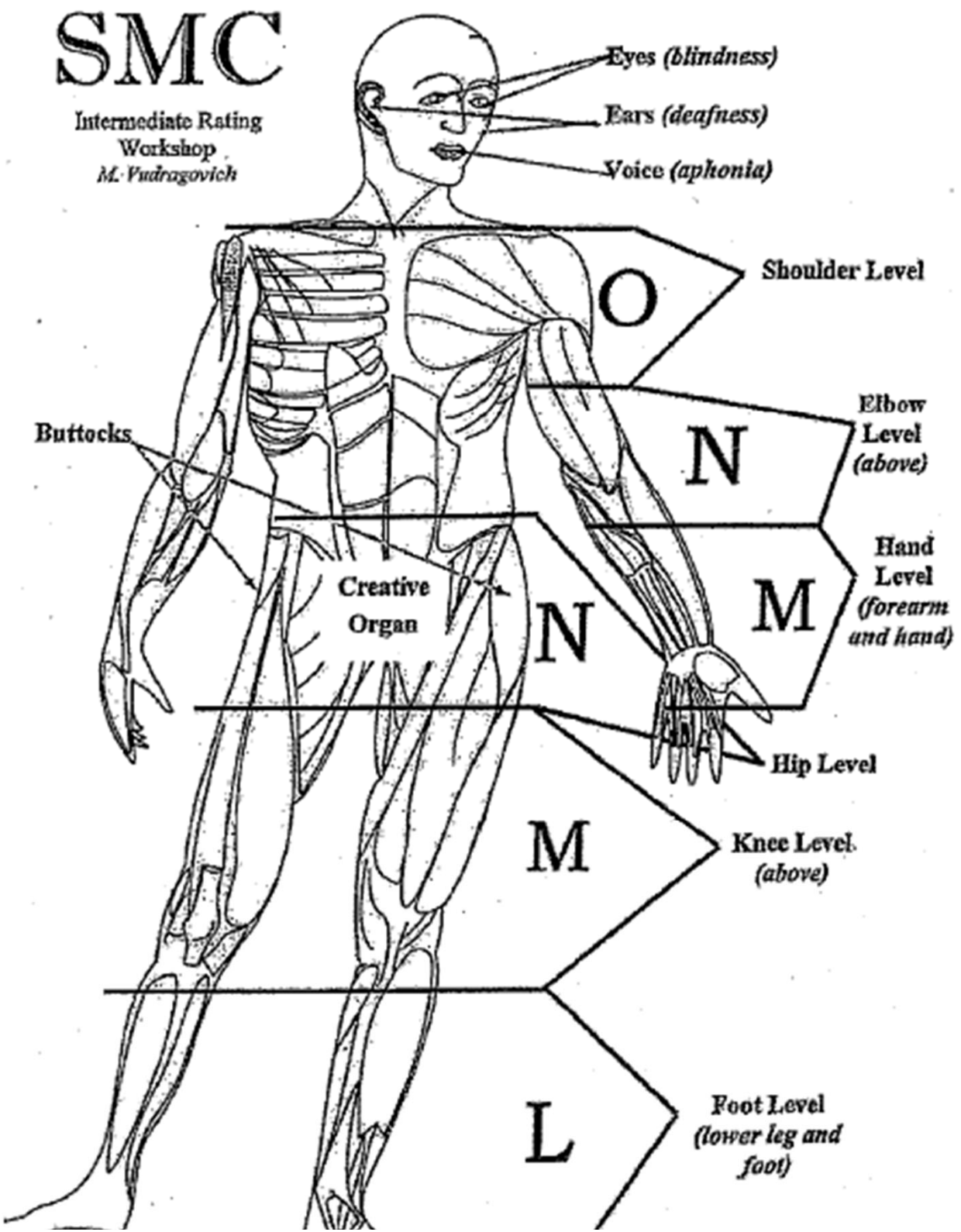
Loss or LOU of a one upper extremity ***above the elbow*** and loss / LOU of one lower extremity ***below the knee*** meets the criteria for **SMC (L ½)** .

SMC: a Visual Guide

What level of loss or loss of use is shown?

What level of amputation is shown? Above or below these major joints?

➔



Another half step: Building SMC M

- Ok, so if L ½ was above the knee in one leg but not the other, loss or loss of use ***above the knee in both legs*** would warrant **SMC (M)**.
- Or, loss / LOU of an upper extremity ***above the elbow and*** loss / LOU of a lower extremity ***above the knee*** would entitle the Veteran to **SMC (M)**.
- Or, loss of one leg ***at / near the hip*** and loss or LOU of the other leg ***below the knee*** would warrant **SMC (M)**.
- Or, loss of one leg ***at / near the hip*** and loss / LOU of ***one hand*** would entitle the Veteran to **SMC (M)**.
- Loss of both hands (arm below the elbow) rates SMC (M).
- Vision with "no light perception" in one eye and visual acuity of 20/200 supports **SMC (M)**.

Building SMC M ½

- So, if **loss of one leg at / near the hip** and loss or LOU of the other leg ***below*** the knee would warrant **SMC (M)**, then the ***loss of one leg at / near the hip*** plus the loss or LOU of the other leg ***above the knee*** would warrant **SMC (M ½)**.
- Similarly, the ***loss of one leg at / near the hip*** plus the loss or LOU of an upper extremity ***above the elbow*** would warrant **SMC (M ½)**.
- If loss of both hands (i.e., below the elbow) warrants "M", then one arm with loss / LOU above the elbow warrants **SMC (M ½)**.
- Vision: no light perception in one eye and light perception only in the other warrants **SMC (M ½)**.

Another half step up…SMC N:

- Loss of one arm ***at the shoulder level*** and loss of one hand (arm below the elbow) warrants SMC (N). Also:
- Loss or loss of use of both arms above the elbow
- Loss of both legs near the hip, preventing prosthesis
- Loss of one leg near the hip and loss of one upper extremity at the shoulder
- Vision: no light perception in either eye

Some additional rules at the "N" level: ***amputation of an extremity is a prerequisite***. Also, prosthetic use may be considered – e.g., if re- amputation would allow prosthetic use not currently worn, these provisions might ***not be met***.

Another Half Step: SMC N ½:

- Loss of one arm ***at the shoulder level*** plus the loss of one arm above the elbow warrants SMC (N ½)

Note: the SMC Code will be 1114 (P)(N ½) if you go to code this in the eval builder. Just look for the corresponding half step code when you are looking for these and verifying your builder results match your inputs from the medical evidence.

Another half step - SMC O:

- Anatomical loss of both arms at the shoulder and prevents use of prosthetics
- Conditions entitling to two or more of the rates (no condition being considered twice) provided in 38 U.S.C. 1114(l) through (n)
- Bilateral deafness rated at 60 percent or more disabling (and the hearing impairment in either one or both ears is service connected) in combination with service-connected blindness with bilateral visual acuity 20/200 or less.

Or...

More SMC O:

- Service-connected **total deafness in one ear or bilateral deafness rated at 40 percent or more** disabling (and the hearing impairment in either one of both ears is service-connected) **in combination with service-connected blindness of both eyes having only light perception or less.**

- ***Paraplegia***. Paralysis of both lower extremities together with loss of anal and bladder sphincter control will entitle to the maximum rate under 38 U.S.C. 1114(o), through the combination of loss of use of both legs and helplessness. The requirement of loss of anal and bladder sphincter control is met even though incontinence has been overcome.

Combinations: Determinations must be based upon separate and distinct disabilities. This requires, for example, that where a veteran who had suffered the loss or loss of use of two extremities is being considered for the maximum rate on account of helplessness requiring regular A&A, the latter must be based on need resulting from pathology other than that of the extremities.

More SMC O:

Side Note: Check the official VA website (www.va.gov) for compensation and SMC Rates (current and historical):

https://www.benefits.va.gov/COMPENSATION/rates-index.asp

You may receive an SMC-O designation if any of the below situations are true for you.

You have:

- Had both arms amputated so close to the shoulder that you can't wear a prosthesis, **or**
- Complete paralysis of both legs that's resulted in being unable to control your bladder or bowels

Or you have:

- Hearing loss in both ears (with at least one ear's deafness caused by military service) that's rated as 60% or more disabling, and you have blindness in both eyes, **or**
- Hearing loss in both ears (with at least one ear's deafness caused by military service) that's rated as 40% or more disabling, and you have blindness in both eyes with only the ability to perceive light, **or**
- Total deafness in one ear as well as blindness in both eyes with only the ability to perceive light

Or you have total blindness without the ability to see light, and you have:

- Deafness in both ears (rated as 30% or more disabling), **or**
- Had one foot amputated, **or**
- Lost the use of one foot (rated as 50% or more disabling), **or**
- Had one hand amputated, **or**
- Lost the use of one hand

Or you have physically lost both eyes, and you have:

- Deafness in both ears (rated as 30% or more disabling), **or**
- Had one foot amputated, **or**
- Lost the use of one foot (rated as 50% or more disabling), **or**
- Had one hand amputated, **or**
- Lost the use of one hand

More on SMC O:

- Helplessness (definition): The maximum rate, as a result of including helplessness as one of the entitling multiple disabilities, is intended to cover, in addition to obvious losses and blindness, conditions such as the loss of use of two extremities with absolute deafness and nearly total blindness or with severe multiple injuries producing total disability outside the useless extremities, these conditions being construed as loss of use of two extremities and helplessness.

See 38 CFR 3.350(e) for additional details

Triple Amputee / 3 extremity rate:

- Anatomical loss, loss of use, or a combination of loss and loss of use of three extremities shall entitle a Veteran to the next higher rate without regard to whether that rate is a statutory rate or intermediate rate.

- See M21-1, VIII.iv.4.A.7.b for an example of rating and coded conclusion for Loss/LOU of 3 extremities

- See also 38 CFR 3.350(f)(5)

SMC R1 – Special Aid & Attendance

The Veteran must qualify for SMC (O) or at an intermediate rate of (N) through (O) ***plus*** (K) ***and*** be in need of aid and attendance.

Example: The Veteran has LOU of both feet (L), is rated 100% for PTSD, and is in need of aid and attendance because of PTSD (they cannot take care of themselves = A&A in fact). So, the Veteran meets the qualifications for SMC (O) because there are **2 separate entitlements to a SMC between (L) through (N),** ***and*** they require aid and attendance of another person. ***It does not matter*** that the need for aid and attendance is based on one of the building blocks (100% PTSD) that got the Veteran to the SMC (O) level.

SMC R2 – Special A&A, higher level

The Veteran meets the max rate under SMC (O) and needs aid and attendance like in R1, ***plus*** the Veteran needs a higher level of care than is required to establish regular aid and attendance. The Veteran would require hospitalization, nursing home care, or other residential institutional care.

Need for higher level of care shall be considered for personal healthcare services on a daily basis. These provisions are strictly construed. This higher level aid-and-attendance allowance is to be granted only when the veteran's need is clearly established and the amount of services required by the veteran on a daily basis is ***substantial***.

SMC T (TBI) : Equivalent to SMC

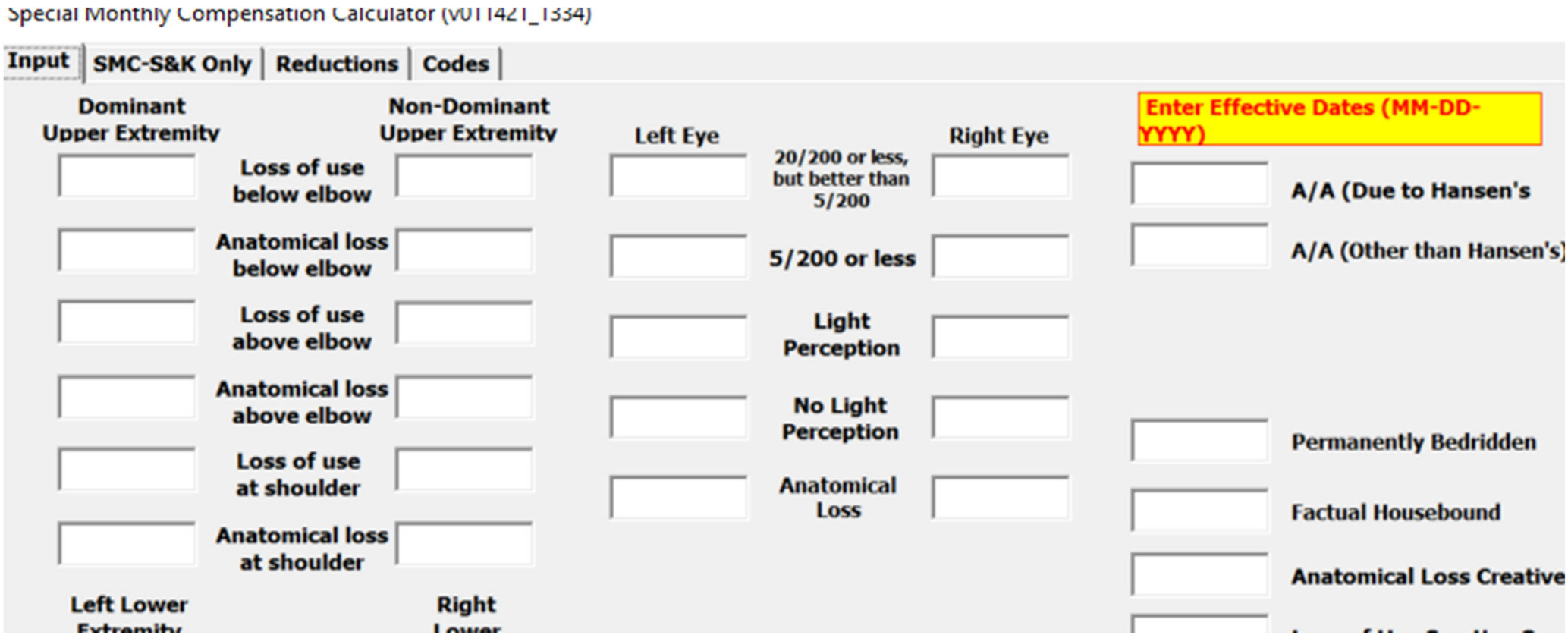
The Veteran does not meet all criteria for SMC (R2), but because of their TBI residuals,

- Have established need of A&A at the SMC (L) rate
- **The need for A&A is due to TBI**
- Would require hospitalization, nursing home care, or other residential institutional care (not just traditional A&A in-home care)

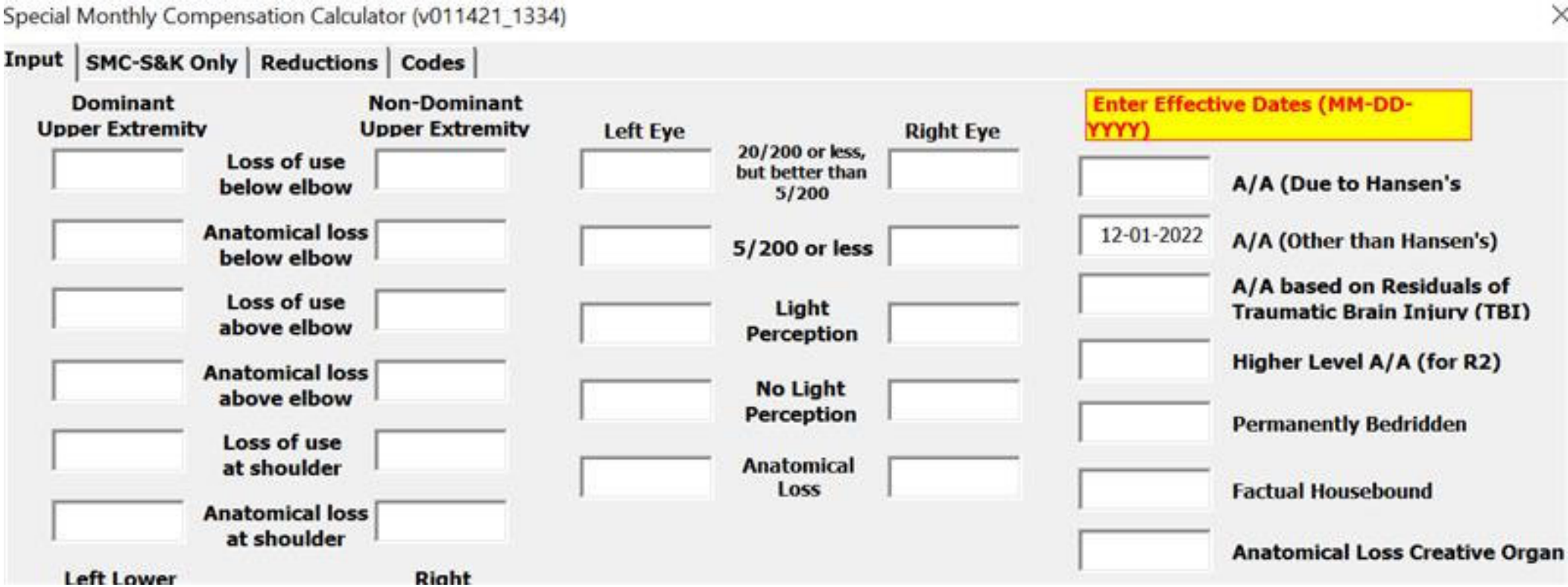
Please see M21-1, VIII.iv.4.A.11.b for SMC (T) development

Also, be careful not confuse TBI SMC (T) with the historical (T) in the SMC calculator!

Builder inputs: Higher Level SMC



Builder inputs: must have A&A first



Explore More!

- VA SC Disability and SMC Rates: https://www.va.gov/disability/compensation-rates/special-monthly-compensation-rates/
- M21-1, VIII.iv.4.A (SMC)
- M21-1, VIII.iv.4.A.7.b (example of rating and coded conclusion for Loss/LOU of 3 extremities)
- M21-1, VIII.iv.4.A.8 (coding and keeping a separate
- M21-1, X.iii.1.C.1.f (SMC coding and hospitalization)
- SMC Calculator User Guide and SMC coding resource links: https://vbatraining.adobeconnect.com/p8xotdzgnrpw/

Questions?

