

interfere with positioning of the hand and would be considered "marked." They also indicated that marked cubitus valgus essentially doesn't occur. They also suggested we add an evaluation level of 10 percent for excision of the radial head and add malunion of radial head at the 20-percent level. Based on this information, we propose to revise the criteria for the 20 and 20 percent level to "Joint fracture with cubitus varus deformity; or ununited or malunited head of radius" and to add a level of 10 and 10 percent for "excised radial head."

We propose no change to diagnostic code 5210, "Radius and ulna, nonunion of with flail false joint" except for revising the title to "Nonunion of radius and ulna, with motion at the fracture site," since the term "false flail joint" is seldom used medically, and the revised title would adequately describe the disability.

We propose to revise the criteria for diagnostic codes 5211, "Ulna, impairment of" and 5212, "Radius, impairment of," for the sake of clarity and in order to provide guidance on evaluating nonunion in the upper half of the ulna or the lower half of the radius with false movement when there is either deformity or loss of bone substance, but not both. Currently 40 or 30 percent is assigned under diagnostic code 5211 for nonunion in the upper half of the ulna with false movement with loss of bone substance and marked deformity, and 30 or 20 percent is assigned for nonunion in the upper half of the ulna without loss of bone substance or deformity. There is no guidance on evaluating an intermediate condition where either deformity or loss of bone substance, but not both, is present. We propose to retain the 40 or 30 percent with the same criteria, but to assign 30 or 20 percent if there is either deformity or loss of bone substance and 20 percent if neither deformity nor loss of bone substance is present. Providing a third method of evaluating nonunion in the upper half of the ulna would promote consistent evaluations for those who have the intermediate level of disability.

We propose to provide a similar intermediate evaluation under diagnostic code 5212, with 30 or 20 percent assigned if there is nonunion of the lower half of the radius with false movement and either deformity or loss of bone substance and 20 percent if neither deformity nor loss of bone substance is present. For both diagnostic code 5211 and 5212, we propose to change the current criterion for 10 percent from "Malunion of, with bad alignment" to "Malunion of,

symptomatic" because disability from these types of injuries is related to function rather than position of the joint. We also propose to add a note under each diagnostic code (5211 and 5212) directing that, alternatively, malunion (of the ulna or the radius) be evaluated based on limitation of motion if that would result in a higher evaluation. We also propose, for both diagnostic codes 5211 and 5212, to remove the word "marked" which currently precedes "deformity" in the evaluation criteria at the 40- and 30-percent level. This disability level will be distinguished from the next lower one by whether or not both deformity and loss of bone substance are present.

Impairment of supination and pronation of forearm, diagnostic code 5213, is currently evaluated at 40 or 30 percent (for dominant and nondominant side, respectively) if there is bone fusion and the hand is fixed in supination or hyperpronation; at 30 or 20 percent if the hand is fixed in full pronation; and at 20 percent if the hand is fixed near the middle of the arc or moderate pronation. For limitation of pronation, 30 or 20 percent is assigned if motion is lost beyond the middle of the arc, and 20 percent is assigned for motion lost beyond the last quarter of the arc, the hand does not approach full pronation. For limitation of supination, 10 percent is assigned for supination to 30 degrees or less. We propose to clarify the evaluation criteria by specifying in degrees what is meant by currently used terms such as "hyperpronation", "Motion lost beyond middle of arc," etc., in order to remove any ambiguity. We propose that when there is bone fusion, an evaluation of 40 or 30 percent be assigned when the hand is fixed in supination (between one and 85 degrees of supination) or in hyperpronation (in greater than 80 degrees of pronation); of 30 or 20 percent be assigned when the hand is fixed in full pronation (at 80 degrees of pronation); and of 20 percent when the hand is fixed at 40 to 45 degrees of pronation. We propose to evaluate limitation of pronation at 30 or 20 percent when pronation is limited to 40 degrees and at 20 percent when pronation is limited to 60 degrees. We propose to evaluate limitation of supination at 10 percent when supination is limited to 30 degrees. We also propose to edit the note that currently says that in all forearm and wrist injuries, codes 5205 through 5213, multiple impaired finger movements due to tendon tie-up, muscle or nerve injury, are to be separately rated and combined not to exceed rating for loss of use of hand. We propose instead to

have the note say that evaluations for forearm and wrist injuries, diagnostic codes 5205 through 5213, will be combined with separate evaluations for limitation of motion of the fingers, subject to the provisions of § 4.68 (which limits the combined evaluation of musculoskeletal and associated neurologic disabilities of an extremity).

Wrist

The consultants suggested no changes for diagnostic code 5214, "Wrist, ankylosis of," except for suggesting that we add a second note stating that bilateral wrist ankyloses are more functional if one wrist is in a flexed position and the other is in an extended position. We propose no change based on this comment. We propose to continue rating each wrist separately as though only one is impaired, a method that would in general be more beneficial to the veteran, and a method that the VHA Orthopedic Committee believe to be appropriate. It seems unlikely, in any case, that more than a few veterans would be service-connected for ankylosis of both wrists. There is currently a note under 5214 stating that extremely unfavorable ankylosis will be rated as loss of use of hands under diagnostic code 5215, but the note does not define "extremely unfavorable ankylosis." We propose to remove this instruction because there is already a provision in § 3.350 (a)(2) of this chapter (the criteria for determining when loss of use of a hand or foot is present) that indicates that special monthly compensation is payable when no effective function of the hand remains. This applies, whatever the cause, and need not be repeated here. We also propose editorial changes for clarity.

We propose to revise the evaluation criteria under diagnostic code 5215, "Wrist, limitation of motion of," by changing the current criteria for a 10-percent evaluation, "Dorsiflexion less than 15 degrees" or "Palmar flexion limited in line with forearm" to "Dorsiflexion limited to 14 degrees, or palmar flexion limited to zero degrees (no palmar flexion possible)". These are clarifying, rather than substantive, changes.

Upper Extremity Digit Ankylosis and Limitation of Motion, Fractures of Hand and Feet Phalanges, Metacarpals, and Metatarsals

Revised criteria and guidance for the evaluation of upper extremity digit ankylosis and limitation of motion (diagnostic codes 5216 through 5227) will be addressed in a separate rulemaking, so they are not being addressed in this proposed rule.