

disability from hammertoe. We propose to add a note directing that each foot, but not each toe, be evaluated separately, with the evaluations to be combined, and we propose to add a second note directing that an evaluation not be assigned both under diagnostic code 5282 and diagnostic code 5278 (pes cavus (clawfoot)) because the findings may be similar and overlapping.

Diagnostic code 5283, malunion or nonunion of the metatarsal or tarsal bones, currently provides levels of 30, 20, and 10 percent, and each percentage level is determined by whether the disability is "severe," "moderately severe," or "moderate." No criteria are provided to explain what these words are intended to mean. The consultants suggested criteria for the three levels of "extreme, not amenable to surgical correction," "severe," and "moderate." These criteria, however, would not adequately remove the subjectivity of the current criteria. The VHA Orthopedic Committee suggested we develop criteria based on symptoms interfering with activities of daily living, athletic activity, and response to treatment, and we propose to follow their suggestion. We propose that a 30-percent evaluation be assigned if there are signs and symptoms (such as pain, calluses, abnormal or limited motion of affected bones or joints) that interfere with activities of daily living and that are not significantly relieved by appliances, orthoses, or orthopedic shoes, or by surgery, if that was done; a 20-percent evaluation if there are signs and symptoms that are partly relieved by appliances, orthoses, or orthopedic shoes, or by surgery, if that was done, but that interfere at times with activities of daily living and with most athletic activity; and a ten-percent evaluation if there are signs and symptoms that are largely or completely relieved by appliances, orthoses, or orthopedic shoes, or by surgery, if that was done, and that do not interfere with activities of daily living but that may at times prevent activities such as running and jumping. These are more objective than the current criteria and provide guidelines that should promote consistent evaluations. They provide levels of 30, 10, and zero rather than 30, 20, and 10 because these levels are more fitting to these criteria and are consistent with the evaluations for malunion of the talus and calcaneus. We propose to add to the title "except talus and calcaneus" because these tarsal bones are evaluated under diagnostic code 5273. There is currently a note under diagnostic code 5283 directing

that if there is actual loss of use of the foot, the evaluation should be 40 percent. We propose to delete this note, as these criteria are adequate for evaluating this condition. Disability that approaches loss of use of a foot is likely to have neurologic or vascular compromise and would be more appropriately evaluated under another diagnostic code.

We propose to change the title of diagnostic code 5284, currently "Foot injuries, other." The category of disability this code is intended to cover is so vague, and its evaluation criteria so subjective, consisting of 30 percent for "severe," 20 percent for "moderately severe," and 10 percent for "moderate," that it is unclear what conditions would be evaluated under this code and on what basis. There are several other diagnostic codes with clear criteria under which foot injuries can be appropriately rated, but we propose to title this diagnostic code "Neurotrophic disorders of the foot" because these are common conditions that do not fall under any other specific diagnostic code, either in the orthopedic or neurologic sections of the rating schedule. This category would include Charcot's foot, diabetic neurotrophic feet, etc. The VHA Orthopedic Committee recommended its addition. We propose four levels of evaluation, with 30 percent assigned for chronic ulceration that cannot be controlled by the use of orthoses; 20 percent for recurrent ulcers that can be controlled by the use of orthoses; 10 percent for pain that is not relieved by orthoses or shoe modification; and zero percent for pain that is relieved by orthoses or shoe modification. We also propose to add a note directing that if there is osteomyelitis of the foot (which may be associated with chronic ulcers that are infected), it will be rated under diagnostic code 5000 (osteomyelitis). We propose to add a second note directing that a 20- or 30-percent evaluation under diagnostic code 5284 may be combined with an evaluation for pain under § 4.59.

Skull

Under the subheading of "The Skull," diagnostic code 5296 encompasses loss of part of the inner and outer tables of the skull. The current criteria are 80 percent if there is a brain hernia; and if there is not a brain hernia, 50 percent if there is an area larger than a 50-cent piece or 1.140 square inches (7.355 square centimeters); 30 percent if the area is intermediate; and 10 percent if the area is smaller than the size of a 25-cent piece or 0.716 square inches (4.619 square centimeters). We propose to

delete the references to coins and round off the measurements, which are carried out to more decimal places than are reasonably measurable or are necessary. If a skull defect has been repaired by a cranioplasty (covering of the defect by bone, metal, or other material), it is not considered disabling. For this reason, we propose to add to the title the phrase "without cranioplasty (covering of defect by bone, metal, or other material)." A current note directs that intracranial complications, such as seizures or paralysis, be rated separately. We propose to add a second note stating that skull loss covered by bone or a prosthesis will not be used in calculating the area of skull loss, because these lessen the danger of injury to the brain.

Ribs

We propose only minor changes, largely editorial, in diagnostic code 5297, "Ribs, removal of" under the subheading "The Ribs." A current note states that the rating for rib resection or removal is not to be applied with ratings for purulent pleurisy, lobectomy, pneumonectomy or injuries of pleural cavity. Purulent pleurisy no longer has a diagnostic code in the rating schedule, and we propose to change the note to read: "Do not combine an evaluation under diagnostic code 5297 with an evaluation under diagnostic code 6844 (post-surgical residual (lobectomy, pneumonectomy, etc.)) or 6845 (chronic pleural effusion or fibrosis)".

Coccyx

We propose to change the current heading of diagnostic code 5298 from "Coccyx, removal of," to "Partial or complete removal of the coccyx," and to retain a 10-percent evaluation if there are painful residuals. We propose to remove the zero-percent criterion "without painful residuals" as unnecessary (*see* § 4.31 of this part).

Section 4.14

We also propose, for the sake of clarity, to revise 38 CFR 4.14, "Avoidance of pyramiding," in subpart A of part 4 (General Policy in Rating) because evaluating orthopedic disabilities commonly requires application of this section, and the principles in this section have sometimes been misunderstood. Section 4.14 currently states that the evaluation of the same disability under various diagnoses is to be avoided and that both the use of manifestations not resulting from service-connected disease or injury in establishing the service-connected evaluation, and the evaluation of the same manifestation under different