

# **VETERANS LAW**

## **Ingram v. Collins**



**“To fulfill President Lincoln's promise to care for those who have served in our nation's military and for their families, caregivers, and survivors.”**



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# Background

- ***Jones v. Shinseki***, 26 Vet. App. 56 (2012), holding that the VA must ignore the beneficial impacts of any medication when rating a service-connected condition *unless* the diagnostic code for that condition specifically takes into account the effects of medication when assigning the Veteran's percentage rating.
- ***McCarroll v. McDonald***, 28 Vet. App. 267 (2016), ruling that the VA can consider the beneficial impacts of blood pressure medication when rating a hypertension claim only because VA's diagnostic code for that condition specifically states that positive effects of blood pressure medication leads to a lower rating.
- ***Ingram v. Collins***, 38 Vet. App. 130 (2025), deciding that VA must discount the beneficial impacts of pain medication when rating musculoskeletal disabilities.
  - In September 2025, CAVC denied VA's petition to stay the ruling pending an appeal to the U.S. Court of Appeals for the Federal Circuit



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# Background





# Federal Circuit

- VA appealed the case to the Federal Circuit (July 29, 2025)
- Issue: Whether the VA can use a veteran's improved condition while on medication to justify a lower disability rating
- Timing – Likely Fall 2026



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# VA's Interim Final Rule

- Administrative Procedures Act
- Effective 17 February 2026 - This amendment clarifies VA's longstanding interpretation of § 4.10 and, in doing so, amends the text **to correct judicial interpretations that VA has concluded misconstrue the role of medication and treatment in evaluating functional impairment.** Specifically, this amendment clarifies that veterans should be compensated for the actual level of functional impairment they experience and, therefore, that the ameliorative effects of medication should not be estimated or discounted when evaluating the severity of a veteran's disability at the time of the disability examination.



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# VA's Interim Final Rule

## Subpart A—General Policy in Rating

2. Revise § 4.10 to read as follows:

### § 4.10

Functional impairment.

The basis of disability evaluations is the ability of the body as a whole, or of the psyche, or of a system or organ of the body to function under the ordinary conditions of daily life including employment. To ensure that disability evaluations are based on the **actual level of functional impairment under the ordinary conditions of daily life, the medical examiner will not estimate or discount improvements to the disability due to the effects of medication or treatment, whether or not medication or treatment is included within specific rating criteria.** If medication or other treatment lowers the level of disability, the **rating will be based on that lowered disability level.** Whether the upper or lower extremities, the back or abdominal wall, the eyes or ears, or the cardiovascular, digestive, or other system, or psyche are affected, evaluations are based upon lack of usefulness, of these parts or systems, especially in self-support. This imposes upon the medical examiner the responsibility of furnishing, in addition to the etiological, anatomical, pathological, laboratory and prognostic data required for ordinary medical classification, full description of the effects of disability upon the person's ordinary activity. In this connection, it will be remembered that a person may be too disabled to engage in employment although he or she is up and about and fairly comfortable at home or upon limited activity.



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# VA's Interim Final Rule

O, what a tangled  
web we weave  
when first we  
practise to deceive!

Walter Scott

BrainyQuote®



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# VA's Interim Final Rule

"Effective immediately, VA is halting enforcement of the interim final rule, Evaluative Rating: Impact of Medication.

VA issued the rule to clarify existing policy and protect Veterans' benefits in the wake of an ongoing court action. But many interpreted the rule as something that could result in adverse consequences.

While VA does not agree with the way this rule has been characterized, the department always takes Veterans' concerns seriously. To alleviate these concerns, VA will continue to collect public comments regarding the rule, but it will not be enforced at any time in the future.

Under my leadership, VA is ensuring that everyone applying for benefits receives everything they have earned as quickly and conveniently as possible. This includes reducing the backlog of Veterans waiting for benefits by more than 60 percent. We will continue these improvements on behalf of America's Veterans, families, caregivers and survivors."

**DOUG COLLINS**  
Secretary of Veterans Affairs





# VA Rescinds Interim Final Rule

**27 February 2026 – after receiving over 20,000 comments, VA rescinded the Interim Final Rule, effective immediately**

VA stated - “VA always takes veterans’ concerns seriously and recognizes that many comments construed the interim final rule as something that could result in adverse consequences.”

VA added – “This action does not resolve the legal questions now before the courts; it simply restores prior regulatory text to maintain stability.”



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# Advice

- Things to Consider
  - Pending Claims and Appeals
  - Claims for Increase?
  - Reductions?
- What do you tell your clients?



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