

5223.0560 RESPIRATORY.

Subpart 1. **Evaluation procedures.** The procedures used in evaluating permanent partial impairment of the respiratory system includes the following:

A. performance of the following tests of ventilation, as defined in part 5223.0310, subparts 18, 27, and 30:

- (1) FEV1;
- (2) FVC;
- (3) DCO;

B. performance of cardiopulmonary exercise testing. Cardiopulmonary exercise testing, as defined in part 5223.0310, subpart 11, should be done when complaints of dyspnea and limitation of activity are more severe than spirometry or DCO would indicate, or there was incorrect or submaximum performance in the spirometry or DCO tests. Performance on cardiopulmonary exercise testing is measured by the VO_2 max, as defined in part 5223.0310, subpart 61.

Subp. 2. **Fixed obstructive or restrictive disease.** A permanent partial impairment of the respiratory system due to fixed obstructive or restrictive disease must be rated under one of items A to F. If the measurements of FEV1, FVC, FEV1/FVC, DCO, or VO_2 max fall in different items, then the item that provides for the largest percentage of disability is the appropriate rating for the condition.

A. Class 1, zero percent:

(1) FEV1 greater than or equal to 80 percent of predicted, FVC greater than or equal to 80 percent of predicted, DCO greater than or equal to 80 percent of predicted, and FEV1/FVC greater than or equal to 70 percent of predicted; or

(2) VO_2 max greater than 25 milliliters per kilogram each minute.

B. Class 2, ten percent:

(1) FEV1 greater than 69 percent but less than 80 percent of predicted, or FVC greater than 69 percent but less than 80 percent of predicted, or DCO greater than 69 percent but less than 80 percent of predicted, or FEV1/FVC greater than 59 percent but less than 70 percent of predicted; or

(2) VO_2 max greater than 22 milliliters per kilogram each minute but less than or equal to 25 milliliters per kilogram each minute.

C. Class 3, 25 percent:

(1) FEV1 greater than 59 percent but less than 70 percent of predicted, or FVC greater than 59 percent but less than 70 percent of predicted, or DCO greater than 59

percent but less than 70 percent of predicted, or FEV1/FVC greater than 49 percent but less than 60 percent of predicted; or

(2) VO_2 max greater than 19 milliliters per kilogram each minute but less than or equal to 22 milliliters per kilogram each minute.

D. Class 4, 50 percent:

(1) FEV1 greater than 41 percent but less than 60 percent of predicted, or FVC greater than 49 percent but less than 60 percent of predicted, or DCO greater than 41 percent but less than 60 percent of predicted, or FEV1/FVC greater than 41 percent but less than 50 percent of predicted; or

(2) VO_2 max greater than 15 milliliters per kilogram each minute but less than or equal to 19 milliliters per kilogram each minute.

E. Class 5, 75 percent:

(1) FEV1 greater than 30 percent but less than 41 percent of predicted, or FVC greater than 40 percent but less than 50 percent of predicted, or DCO greater than 30 percent but less than 41 percent of predicted, or FEV1/FVC greater than 30 percent but less than 41 percent of predicted; or

(2) VO_2 max greater than seven milliliters per kilogram each minute but less than or equal to 15 milliliters per kilogram each minute.

F. Class 6, 95 percent:

(1) FEV1 less than or equal to 30 percent, or FVC less than or equal to 40 percent, or DCO less than or equal to 30 percent, or FEV1/FVC less than or equal to 30 percent; or

(2) VO_2 max less than or equal to seven milliliters per kilogram each minute.

Subp. 3. **Asthma and pulmonary conditions with an asthmatic component.** Asthma and pulmonary conditions with an asthmatic component may be rated only under this subpart. Ratings under subpart 2 may not be substituted for or combined with ratings under this subpart.

A. Ratings under this subpart are based on:

(1) the level of bronchial obstruction as measured by pulmonary function tests done when the individual is on an optimum treatment regimen but without the addition of inhaled bronchodilator immediately preceding the pulmonary function testings;

(2) the level of bronchial responsiveness as measured by standardized methacholine challenge testing;

(3) the need for bronchodilator therapy.

Each element in subitems (1) to (3) must be present for the rating under that subitem to be assigned.

B. The permanent partial disability for asthma and pulmonary conditions with an asthmatic component is:

(1) class I: FEV1 and FEV1/FVC are equal to or greater than 80 percent of predicted, PD20 is greater than 25 milligrams per milliliter, and no need for persistent bronchodilator therapy, zero percent;

(2) class II: FEV1 and FEV1/FVC are equal to or greater than 80 percent of predicted, PD20 is five to 25 milligrams per milliliter, and no need for persistent bronchodilator therapy, five percent;

(3) class III: FEV1 and FEV1/FVC are equal to or greater than 80 percent of predicted, PD20 is five to 25 milligrams per milliliter, and persistent bronchodilator therapy is required, ten percent;

(4) class IV: FEV1 and FEV1/FVC are equal to or greater than 80 percent of predicted, PD20 is .025 to four milligrams per milliliter, and no persistent bronchodilator therapy is required, ten percent;

(5) class V: FEV1 and FEV1/FVC are equal to or greater than 80 percent of predicted, PD20 is .025 to four milligrams per milliliter, and persistent bronchodilator therapy is required, 13 percent;

(6) class VI: FEV1 and FEV1/FVC are equal to or greater than 80 percent of predicted, and PD20 is less than 0.25 milligrams per milliliter, 15 percent;

(7) class VII: FEV1 or FEV1/FVC is less than 80 percent but greater than or equal to 70 percent of predicted, and PD20 is greater than five milligrams per milliliter, 18 percent;

(8) class VIII: FEV1 or FEV1/FVC is less than 80 percent but greater than or equal to 70 percent of predicted, and PD20 is 0.25 to four milligrams per milliliter, 20 percent;

(9) class IX: FEV1 or FEV1/FVC is less than 80 percent but greater than or equal to 70 percent of predicted, and PD20 is less than 0.25 milligrams per milliliter, 25 percent;

(10) class X: FEV1 or FEV1/FVC is less than 70 percent but greater than or equal to 60 percent of predicted, and PD20 is greater than 0.25 milligrams per milliliter, 28 percent;

(11) class XI: FEV1 or FEV1/FVC is less than 70 percent but greater than or equal to 60 percent of predicted, and PD20 is less than 0.25 milligrams per milliliter, 33 percent;

(12) class XII: FEV1 or FEV1/FVC is less than 60 percent but greater than or equal to 40 percent of predicted, and PD20 is greater than 0.25 milligrams per milliliter, 50 percent;

(13) class XIII: FEV1 or FEV1/FVC is less than 60 percent but greater than or equal to 40 percent of predicted, and PD20 is less than 0.25 milligrams per milliliter, 60 percent;

(14) class XIV: FEV1 or FEV1/FVC is less than 40 percent but greater than or equal to 30 percent of predicted, 75 percent;

(15) class XV: FEV1 or FEV1/FVC is less than 30 percent of predicted, 95 percent.

C. Additional impairment occurs if persistent steroid therapy is required for the treatment of the asthma or asthmatic component:

(1) only inhaled steroids required, add three percent to the otherwise appropriate class in item B, but the total impairment cannot exceed 95 percent;

(2) if oral steroids are required or oral steroids and inhaled steroids, add ten percent to the otherwise appropriate class in item B, but the total impairment cannot exceed 95 percent.

Statutory Authority: *MS s 176.105*

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