

Office of Administrative Review: Training Handout

Higher-Level Review Returns (VA 4571667)


Student Guide – Return Scenario 1



Training Scenario

Veteran has two periods of service. Veteran filed a claim for service connection for sleep apnea and was denied without an examination because service treatment records did not show any complaints related to sleep. Veteran received the notification letter on January 4, 2021, and filed a higher-level review request on June 1, 2021. Decision Review Officer (DRO) issued the following decision to return for duty to assist error.

Higher-Level Review Return

 Department of Veterans Affairs		HIGHER-LEVEL REVIEW RETURN	
POA American Legion	DATE OF RETURN: 06/04/2021	REGIONAL OFFICE NUMBER 317	
NAME OF CLAIMANT John Anderson		VA FILE NUMBER TRA-12-3456	
SECTION I			
THE HIGHER-LEVEL REVIEW BEING RETURNED RELATES TO THE FOLLOWING ISSUES:			
LIST ALL SPECIFIC ISSUES BEING RETURNED (Continue on additional page as necessary)		DATE OF VA DECISION NOTICE	
sleep apnea		01/04/2021	
SECTION II			
THE HIGHER-LEVEL REVIEW HAS BEEN RETURNED FOR THE FOLLOWING REASONS:			
DUTY TO ASSIST ERRORS (Select all that apply)			
<input type="checkbox"/> PRIVATE MEDICAL RECORDS	<input checked="" type="checkbox"/> FEDERAL MEDICAL RECORDS	<input type="checkbox"/> OTHER MEDICAL RECORDS	<input type="checkbox"/> EXAMINATION OR MEDICAL OPINION
<input type="checkbox"/> OTHER RECORDS			
REQUIRED DEVELOPMENT - DIFFERENCE OF OPINION (Select all that apply)			
<input type="checkbox"/> FEDERAL RECORDS	<input type="checkbox"/> OTHER RECORDS	<input type="checkbox"/> EXAMINATION OR MEDICAL OPINION	<input type="checkbox"/> OTHER DEVELOPMENT
EXPLANATION FOR ITEMS CHECKED (Continue on additional page as necessary)			
<p>STRs from the Veteran's 2nd period Army service (1/5/90-9/5/97) are not of record. Only the records from the 1st period Air Force service are of record. Please develop for the STRs from the 2nd period of service. III.iii.2.B.2.e. After those are obtained, please review for the need for an exam and medical opinion based on those records.</p>			



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Classroom Discussion



1. Why did the DRO determine there was a duty to assist error in this claim?
2. Review the M21 reference cited by the DRO. What are the steps the VSR should undertake to obtain the missing records?
3. VSR receives the missing STRs. What should the VSR do next?

