

Office of Administrative Review: Training Handout

Higher-Level Review Returns (VA 4571667)


Instructor Guide – Return Scenario 3



Training Scenario

Veteran claimed service connection for depression due to service-connected low back condition and provided private medical evidence. An exam was conducted but there was no secondary medical opinion requested. 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	DATE OF RETURN:	REGIONAL OFFICE NUMBER	
	05/10/2021	346	
NAME OF CLAIMANT		VA FILE NUMBER	
Denise Blumenthal		TRA-00-5478	
SECTION I			
THE HIGHER-LEVEL REVIEW BEING RETURNED RELATES TO THE FOLLOWING ISSUES:			
LIST ALL SPECIFIC ISSUES BEING RETURNED <i>(Continue on additional page as necessary)</i>		DATE OF VA DECISION NOTICE	
major depressive disorder		04/12/2021	
SECTION II			
THE HIGHER-LEVEL REVIEW HAS BEEN RETURNED FOR THE FOLLOWING REASONS:			
DUTY TO ASSIST ERRORS <i>(Select all that apply)</i>			
<input type="checkbox"/> PRIVATE MEDICAL RECORDS	<input type="checkbox"/> FEDERAL MEDICAL RECORDS	<input type="checkbox"/> OTHER MEDICAL RECORDS	<input checked="" type="checkbox"/> EXAMINATION OR MEDICAL OPINION
<input type="checkbox"/> OTHER RECORDS			
REQUIRED DEVELOPMENT - DIFFERENCE OF OPINION <i>(Select all that apply)</i>			
<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 <i>(Continue on additional page as necessary)</i>			
Please request a secondary medical opinion addendum to the mental disorders exam dated 4/2/21.			



Office of Administrative Review: Training Handout

Higher-Level Review Returns (VA 4571667)

Instructor Guide – Return Scenario 3

Classroom Discussion

NOTE: Allow students to ask questions as needed about this exercise, outside the pre-determined discussion questions. This is an exercise to introduce students to real sample remands and development actions from actual claims. It is important that their questions and thoughts drive the discussion.

1. Why did the DRO determine there was a duty to assist error in this claim?

Instructor Discussion Point: *Veteran claimed a secondary service connection and provided private medical opinion; the exam was requested but there was no medical opinion requested.*



2. Based on the higher-level review return, what is needed to develop the claim?

Instructor Discussion Point: *Request a secondary medical opinion asking about a relationship between the major depressive disorder and the back condition.*

3. How should the VSR word the addendum request?

Instructor Discussion Point: *The addendum should read “Veteran is claiming mental condition due to the back. Veteran has been diagnosed with MDD. Please review the evidence and opine if the Veteran’s MDD is at least as likely as not related to or due to the service-connected low back condition.”*