

# Office of Administrative Review: Training Handout

## Higher-Level Review Returns (VA 4571667)


### Instructor Guide – Return Scenario 4



### Training Scenario

Veteran claimed service connection for right knee. The issue was denied without an examination. Decision Review Officer (DRO) issued the following decision to return for difference of opinion development.

### Higher-Level Review Return

 Department of Veterans Affairs		HIGHER-LEVEL REVIEW RETURN	
POA	DATE OF RETURN:	REGIONAL OFFICE NUMBER	
	03/09/2021	317	
NAME OF CLAIMANT		VA FILE NUMBER	
Freddie Harding		TRA-54-9872	
<b>SECTION I</b>			
<b>THE HIGHER-LEVEL REVIEW BEING RETURNED RELATES TO THE FOLLOWING ISSUES:</b>			
LIST ALL SPECIFIC ISSUES BEING RETURNED <i>(Continue on additional page as necessary)</i>		DATE OF VA DECISION NOTICE	
right knee		02/20/2021	
<b>SECTION II</b>			
<b>THE HIGHER-LEVEL REVIEW HAS BEEN RETURNED FOR THE FOLLOWING REASONS:</b>			
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 type="checkbox"/> EXAMINATION OR MEDICAL OPINION
REQUIRED DEVELOPMENT - DIFFERENCE OF OPINION <i>(Select all that apply)</i>			
<input type="checkbox"/> FEDERAL RECORDS	<input type="checkbox"/> OTHER RECORDS	<input checked="" 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 knee exam with direct medical opinion for the right knee claim because Veteran had right knee pain in service.			



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#### 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. Was the HLR return a duty to assist error or difference of opinion? Does that affect how the VSR should proceed with development?

**Instructor Discussion Point:** DRO returned the issue as a difference of opinion; there is no difference in how the VSR should proceed with development.

2. What action does the VSR need to undertake?

**Instructor Discussion Point:** VSR needs to review the claim in order to prepare the medical opinion, tab necessary evidence, and use ERRA to determine the proper exam routing location.

3. The DRO did not include medical opinion verbiage and did not indicate any tabbed evidence. What types of evidence should the VSR tab in developing this return? How should the VSR word the medical opinion request?

**Instructor Discussion Point:** VSR should tab medical evidence in STRs and any private or VA treatment records showing knee pain. VSR should tab any statements made by the Veteran; the medical opinion should be worded similar to “Does the Veteran have a right knee condition that is at least as likely as not related to the tabbed complaints of right knee pain in service?” The VSR should look at the favorable findings section of the rating decision for any evidence that should be tabbed.

Once all development is completed in accordance with the DRO’s instructions, the VSR should refer the claim to an RVSR as Ready for Decision. The RVSR should then review the claim and rate as with any other claim, if all development is complete. If additional development is needed, the RVSR should defer the claim back to the VSR with



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*instructions.*

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