

Office of Administrative Review

Reading and Analyzing Board Remands- Training Handout 2

REMAND DATE: June 9, 2021

REMANDED

Entitlement to service connection for a right shoulder disability, to include as secondary to a service-connected disability is remanded.

Entitlement to service connection for a left shoulder disability, to include as secondary to a service-connected disability is remanded.

REASONS FOR REMAND

The Veteran served on active duty from May 1979 to June 1996.

In February 2018, he testified at a videoconference hearing before the undersigned Veterans Law Judge. A transcript of that hearing is of record.

The appeal was most recently before the Board in April 2018 when it was remanded for further development. There has not been substantial compliance with the remand directives and the claims must be remanded again. *Stegall v. West*, 11 Vet. App. 268 (1998).

Claims of service connection for neck, right knee, and left knee disabilities were also remanded in April 2018. Service connection has been granted for cervical strain, patellofemoral pain syndrome with asymptomatic anterior patellar spur, right knee, and patellofemoral pain syndrome with asymptomatic anterior patellar spur, left knee; the issues are no longer before the Board. See April 2020 rating decision.

Entitlement to service connection for a right shoulder disability, to include as secondary to a service-connected disability is remanded.

Entitlement to service connection for a left shoulder disability, to include as secondary to a service-connected disability is remanded.

The December 2019 VA examiner's opinions regarding the shoulder claims are inadequate because the examiner used the wrong standard for aggravation; the examiner addressed beyond natural progression, rather than the correct "any increase" in disability. 38 C.F.R. § 3.310 (b); *Allen v. Brown*, 7 Vet. App. 439 (1995).

On remand, updated treatment records should be obtained. See 38 C.F.R. § 3.159. See also *Bell v. Derwinski*, 2 Vet. App. 611 (1992).

The matters are REMANDED for the following action:

1. Obtain the names and addresses of all medical care providers who treated

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the Veteran for right or left shoulder complaints since service not already associated with the record. After securing the necessary release, take all appropriate action to obtain these records, including any VA treatment records since November 2019.

2. After the completion of the above, obtain an addendum opinion from the VA examiner who provided December 2019 VA opinion, (or another appropriate provider if December 2019 examiner is unavailable) to determine the nature and etiology of the Veteran's right and left shoulder disabilities. Copies of all pertinent records, including this remand, must be made available to the examiner for review. Based on the review of the record (and examination if needed), the examiner should answer the following:

(a.) For each currently diagnosed shoulder disability, is it at least as likely as not (i) caused or (ii) aggravated by (defined as any increase in disability) the Veteran's service-connected back and/or neck disabilities, to include any associated neurological manifestations? Why or why not?

The examiner must explain the rationale for all opinions in detail, citing to supporting clinical data and/or medical literature, as appropriate. If an opinion cannot be provided, the examiner should indicate why.

3. Confirm that the VA medical opinion provided comports with this remand, specifically that the standard for the secondary aggravation opinion is any increase in disability, not the incorrect standard of beyond the natural progression as noted on the examination form itself. If not, get an addendum.