

# Office of Administrative Review

## Reading and Analyzing Board Remands- Training Handout 4

REMAND DATE: December 18, 2021

### REMANDED

Entitlement to an evaluation higher than 70 percent for service-connected posttraumatic stress disorder (PTSD) is remanded.

### REASONS FOR REMAND

The Veteran served on active duty from November 1967 to June 1970.

This appeal comes before the Board on appeal from a September 2016 rating decision.

#### **Entitlement to an evaluation higher than 70 percent for service-connected PTSD is remanded.**

First, remand is required to obtain outstanding treatment records. VA has a duty to assist claimants to obtain evidence needed to substantiate a claim. 38 U.S.C. § 5103A (2012); 38 C.F.R. § 3.159(c) (2019). This includes making reasonable efforts to obtain relevant private medical records. 38 C.F.R. § 3.159(c)(1). In a July 2016 VA treatment record the Veteran reported he attended group meetings at the Vet Center in Montrose and he also sees a doctor there. During the appointment he expressed a desire to get a copy of those records. No such Vet Center records are associated with the claims file. Accordingly, remand is required to obtain all outstanding VA treatment records.

Second, remand is required for a current VA addendum opinion that addresses the severity of the Veteran's PTSD after reviewing the relevant treatment records.

The matters are REMANDED for the following action:

1. Contact the appropriate VA Medical Center and obtain and associate with the claims file all outstanding records of treatment. If any requested records are not available, or the search for any such records otherwise yields negative results, that fact must clearly be documented in the claims file. Efforts to obtain these records must continue until it is determined that they do not exist or that further attempts to obtain them would be futile. The non-existence or unavailability of such records must be verified, and this should be documented for the record. Required notice must be provided to the appellant and his attorney.
2. Contact the appellant and afford him the opportunity to identify by name, address and dates of treatment or examination any relevant medical records, to specifically

include Vet Center records from the facility in Montrose. Subsequently, and after securing the proper authorizations where necessary, make arrangements to obtain all the records of treatment or examination from all the sources listed by the appellant which are not already on file. All information obtained must be made part of the file. All attempts to secure this evidence must be documented in the claims file, and if, after making reasonable efforts to obtain named records, they are not able to be secured, provide the required notice and opportunity to respond to the appellant and his representative.

3. After any additional records are associated with the claims file, obtain an addendum opinion to determine the severity of the service-connected PTSD. The entire claims file must be made available to and be reviewed by the examiner. An explanation for all opinions expressed must be provided. The relevant Disability Benefits Questionnaire must be utilized.

The examiner must address the following: 1) any relevant VA treatment records, including the July 2016 VA treatment record in which the Veteran reported having suicidal thoughts; 2) the July 2016 statement from the Veteran's wife; 3) the July 2016 VA examination; and 4) any obtained Vet Center records.