

Citation Nr: 1642711

Decision Date: 11/07/16 Archive Date: 11/18/16

DOCKET NO. 08-29 664) DATE

}

On appeal from the
Department of Veterans Affairs Regional Office in Atlanta, Georgia

THE ISSUES

1. Entitlement to service connection for a pelvic disorder.
2. Entitlement to service connection for a gastrointestinal/abdominal disorder.

REPRESENTATION

Veteran represented by: Chuck R. Pardue, Attorney at Law

WITNESS AT HEARING ON APPEAL

The Veteran

ATTORNEY FOR THE BOARD

M. Peters, Counsel

INTRODUCTION

The Veteran had active duty service from November 1984 to March 1992.

This matter comes before the Board of Veterans' Appeals (Board) on appeal from a July 2007 rating decision by the Department of Veterans Affairs (VA) Regional Office (RO), in St. Petersburg, Florida. The Veteran timely appealed the above issues. During the pendency of the appeal, jurisdiction of the case has been transferred to the RO in Atlanta, Georgia.

The Veteran later testified at a hearing before the undersigned Acting Veterans Law Judge in March 2011; a transcript of that hearing is associated with the claims file.

This case was last before the Board in November 2014, at which time the Board denied an increased evaluation for the Veteran's painful surgical scar status post right ovarian cyst removal. The Board considers that claim to be final at this time and it will no longer be addressed in this decision.

Also in November 2014, the Board remanded the service connection claims for pelvic and abdominal disorders. The case was returned to the Board in February 2016, at which time the Board requested a Veterans Hospital Administration (VHA) medical opinion. Two separate VHA medical opinions were obtained in April 2016. The Board notified the Veteran of the VHA request and obtained VHA medical opinions in a June 2016 letter. The case is again before the Board at this time for further appellate review.

The appeal is **REMANDED** to the Agency of Original Jurisdiction (AOJ). VA will notify the Veteran if further action is required.

REMAND

In response to the June 2016 notification letter respecting the obtained VHA medical opinions, the Veteran and her representative submitted additional evidence and argument in June 2016. With that response, the Veteran indicated that she did not wish to waive AOJ jurisdiction and wished the Board to remand her claim. In light of the submission of additional evidence without a waiver, the Board must remand this case to the AOJ in order to consider this evidence in the first instance.

On remand, the AOJ should additionally clarify with the Veteran and her representative whether they desire another hearing in this matter, as requested in the November 2015 substantive appeal, VA Form 9, submitted in response to the AOJ's July 2015 supplemental statement of the case. If an additional hearing before the Board is still desired, the AOJ should schedule the Veteran and her representative for the earliest possible videoconference hearing with the Board and endeavor to coordinate with the Board to ensure that the undersigned Acting Veterans Law Judge presides over that scheduled hearing in order to avoid any potential complications under *Arneson v. Shinseki*, 24 Vet. App. 379, 386 (2011).

Accordingly, the case is **REMANDED** for the following action:

1. The AOJ should review the claims file and the evidence received since the last statement of the case or supplemental statement of the case and readjudicate the Veteran's claims of service connection for pelvic and gastrointestinal/abdominal disorders. If the benefits sought on appeal remain denied, the Veteran and her representative should be furnished a supplemental statement of the case and given the opportunity to respond thereto before the case is returned to the Board.

2. Following the issuance of the supplemental statement of the case, the AOJ should contact the Veteran and her representative in order to clarify whether they still desire another hearing before the Board via videoconference as indicated in the July 2015 substantive appeal, VA Form 9.

If the Veteran and her representative still desire a hearing, schedule the Veteran for the earliest available videoconference hearing; the AOJ should also attempt to coordinate with the Board to make an effort to have Acting Veterans Law Judge Skaltsounis preside over this scheduled hearing in order to avoid any complications under *Arneson v. Shinseki*, 24 Vet. App. 379 (2011). Notify her and her representative of the date, time and location of this hearing. Place a copy of the hearing notice letter in the claims file. If, for whatever reason, the Veteran withdraws her request for a hearing or fails to report for same please add appropriate documentation to the claims file.

The Veteran has the right to submit additional evidence and argument on the matters the Board has remanded. *Kutscherousky v. West*, 12 Vet. App. 369 (1999).

This claim must be afforded expeditious treatment. The law requires that all claims that are remanded by the Board of Veterans' Appeals or by the United States Court of Appeals for Veterans Claims for additional development or other appropriate action must be handled in an expeditious manner. See 38 U.S.C.A. §§ 5109B, 7112 (West 2014).

Michael J. Skaltsounis
Acting Veterans Law Judge, Board of Veterans' Appeals

Under 38 U.S.C.A. § 7252 (West 2014), only a decision of the Board of Veterans' Appeals is appealable to the United States Court of Appeals for Veterans Claims. This remand is in the nature of a preliminary order and does not constitute a decision of the Board on the merits of your appeal. 38 C.F.R. § 20.1100(b) (2015).

