

Citation Nr: 1530173

Decision Date: 07/15/15 Archive Date: 07/21/15

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

## THE ISSUES

1. Entitlement to service connection for hives/angioedema, to include as secondary to sarcoidosis.
2. Entitlement to service connection for a spleen condition, to include as secondary to sarcoidosis.
3. Entitlement to service connection for a colon condition, gastritis, swelling or inflammation of the small intestine, to include as secondary to sarcoidosis.
4. Entitlement to service connection for sleep apnea, to include as secondary to sarcoidosis.
5. Entitlement to a rating in excess of 20 percent for diabetes mellitus.
6. Entitlement to a rating in excess of 30 percent for sarcoidosis.

## REPRESENTATION

Appellant represented by: Chuck Pardue, Attorney

## ATTORNEY FOR THE BOARD

C. Fields, Counsel

## INTRODUCTION

The Veteran had active service from August 1974 to August 1996.

This matter comes before the Board of Veterans' Appeals (Board) on appeal from November 2009, September 2011, and June 2013 rating decisions of the Department of Veterans Affairs (VA) Regional Office (RO) in Atlanta, Georgia.

The November 2009 rating decision denied service connection for sleep apnea and denied an increased rating in excess of 30 percent for sarcoidosis. A statement of the case (SOC) was provided in February 2012 for both of these issues; however, only the issue of an increased rating for sarcoidosis was certified for appeal in the October 25, 2013 VA Form 8.

Nevertheless, the Veteran had submitted a VA Form 9 (dated in April 2012 and received in May 2012) indicating that he wanted to claim service connection for sleep apnea as directly related to service, not as secondary to his sarcoidosis as had been previously addressed. Shortly thereafter, in May 2012 and June 2012, the Veteran indicated that he wanted to "cancel" his appeal for sleep apnea and "reopen" it as a separate claim as directly related to service. The RO informed the Veteran, however, in an August 2012 letter that the issue of service connection for sleep apnea as directly related to service was inextricably intertwined with the pending appeal for sleep apnea as secondary to sarcoidosis. The Veteran has continued to seek service connection for sleep apnea. It is more favorable to the Veteran for this issue to continue on appeal, as it may result in an earlier effective date if service connection for sleep apnea is eventually granted. Therefore, this issue remains on appeal as noted in the August 2012 letter.

The September 2011 rating decision denied service connection for hives or angioedema; a spleen condition; and a colon condition, gastritis, swelling or inflammation of the small intestine; all claimed as secondary to sarcoidosis. This rating decision also granted service connection and an initial 20 percent rating for diabetes mellitus. A June 2013 rating decision then confirmed and continued the prior denials of service connection, a SOC was subsequently issued, and an October 2013 VA Form 8 certified all of these issues for appeal to the Board.

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

## REMAND

Two certifications of appeal (VA Form 8) in October 2013 noted that the Veteran had requested a Travel Board hearing for each of the issues on appeal. Then, in August 2014, he requested and was scheduled for a Board hearing at the Board. In April 2015, however, the Veteran requested to change to a video conference hearing at the local RO. This request was again submitted in May 2015, prior to the scheduled hearing date. He is entitled to one time rescheduling of the hearing scheduled at the Board. 38 C.F.R. § 20.702(c) (2014). The case must be remanded to schedule the requested videoconference hearing.

Accordingly, the case is REMANDED for the following action:

### Schedule a videoconference Board hearing at the RO.

The appellant 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 expeditiously. 38 U.S.C.A. §§ 5109B, 7112 (West 2014).

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Mark D. Hindin  
Veterans Law Judge, Board of Veterans' Appeals

Under 38 U.S.C.A. § 7252 (West 2002), 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) (2014).