

All,

VA has recently conducted training with regards to their interpretation of 38 CFR § 3.159(c)(4)(i) (requirements for scheduling C+P exams).

Per 38 C.F.R. 3.159(c)(4)(i), “[a]n examination or medical opinion is necessary when the evidence of record does not contain sufficient medical evidence to decide the claim, but the following three parts are present:

- (A) Contains competent lay or medical evidence of a current diagnosed disability or persistent or recurrent symptoms of disability;
- (B) Establishes that the veteran suffered an event, injury or disease in service, or has a disease or symptoms of a disease listed in §3.309, §3.313, §3.316, and §3.317 manifesting during an applicable presumptive period provided the claimant has the required service or triggering event to qualify for that presumption; and
- (C) Indicates that the claimed disability or symptoms may be associated with the established event, injury, or disease in service or with another service-connected disability.”

The last requirement for an “indication of association” can be satisfied by lay testimony. The veteran’s indication that his or her condition has existed “since service” satisfies the requirement. However, without a medical or lay indication of association, VA is of the opinion that no examination would be warranted in most cases.

We are concerned that claimants seeking to file claims for service connection may not receive an examination or medical opinion to provide a nexus that proves the claimed disability is associated with the established event, injury or disease in service or with another service-connected disability.

Therefore for all service connection claims we encourage CSOs/DSOs/HSCs to have claimants provide a statement of association explaining the symptoms experienced, and that the claimed condition has existed since service for EACH condition claimed.

example #1 ***I injured my left knee during a parachute jump on active duty, I went to sick call and was placed on limited duty for 2 weeks for a strained ligament, I have had continuous problems with my knee ever since my in-service injury.***

example #2 ***I worked as a jet engine mechanic for 4 years, I started experiencing hearing problems and ringing in my ears while working around aircraft on the flight line, I continue to have ringing and difficulty hearing to this day.***

p.s.

Just reviewed 2 denials w/o exams for the exact reason stated above...

Thanks for all you do...

Mike

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