BOARD OF VETERANS' APPEALS

DEPARTMENT OF VETERANS AFFAIRS

WASHINGTON, DC 20420

IN THE APPEAL OF [redacted]
SAMANTHA J. UNELL

IN THE CASE OF
WILLIAM L. CHANDLER

DOCKET NO. 13-22 005A) *DATE April 8, 2016*
) *KK*
)

Received from the
Department of Veterans Affairs Regional Office in Waco, Texas

THE ISSUES

1. Entitlement to an effective date earlier than May 5, 1994 for the grant of service connection for coronary artery disease status post myocardial infarction, for accrued benefits purposes.

2. Entitlement to a rating in excess of 30 percent for coronary artery disease status post myocardial infarction from May 5, 1994 to September 28, 1999, for accrued benefits purposes.

3. Entitlement to an effective date prior to May 29, 2000, for the award of service connection for the cause of the Veteran's death.

REPRESENTATION

Appellant represented by: Michael B. Roberts, Attorney at Law

IN THE APPEAL OF [redacted]
SAMANTHA J. UNELL

IN THE CASE OF
WILLIAM L. CHANDLER

WITNESSES AT HEARING ON APPEAL

The appellant, J.U., and B.U.

ATTORNEY FOR THE BOARD

M. G. Mazzucchelli, Counsel

INTRODUCTION

The Veteran served on active duty from October 1966 to October 1969. He died in May 2000 and the appellant is his daughter.

This case comes before the Board of Veterans' Appeals (Board) on appeal from a December 2012 rating decision of the Department of Veterans Affairs (VA) Regional Office (RO) in St. Paul, Minnesota.

In May 2015, the appellant provided testimony before the undersigned by videoconference hearing.

The issue of entitlement to a rating in excess of 30 percent for coronary artery disease status post myocardial infarction from May 5, 1994 to September 28, 1999, for accrued benefits purposes, is addressed in the REMAND portion of the decision below and is REMANDED to the agency of original jurisdiction.

FINDINGS OF FACT

1. The Veteran was diagnosed as having coronary artery disease in 1990.

2. The earliest written communication that can be interpreted as requesting a determination of entitlement or evidencing a belief of entitlement to service connection for coronary artery disease was received by VA on May 5, 1994.

3. In March 2012, the appellant asserted a freestanding claim seeking an effective date prior to May 29, 2000, for the grant of service connection for the cause of the Veteran's death.

CONCLUSIONS OF LAW

1. The criteria for an effective date earlier than May 5, 1994, for an award of service connection for coronary artery disease status post myocardial infarction have not been met. 38 U.S.C.A. § 5110 (West 2014); 38 C.F.R. §§ 3.400, 3.114, 3.816 (2015).

2. The Board has no authority to adjudicate a freestanding claim for an effective date earlier than May 29, 2000, for the grant of service connection for the cause of the Veteran's death. 38 U.S.C.A. § 7105 (West 2014); *Rudd v. Nicholson*, 20 Vet. App. 296 (2006).

REASONS AND BASES FOR FINDINGS AND CONCLUSIONS

I. Effective Date—Service Connection for Heart Disease

A. Duties to Notify and Assist

VA has a duty to provide notice of the information and evidence necessary to substantiate a claim. 38 U.S.C.A. § 5103(a) (West 2014); 38 C.F.R. § 3.159(b) (2015).

The appeal arises from a disagreement with the initially assigned effective date after service connection was granted. Once a decision awarding service connection, a disability rating, and an effective date has been made, section 5103(a) notice is no longer required because the claim has already been substantiated.

VA also has a duty to provide assistance to substantiate a claim. 38 U.S.C.A. § 5103A (West 2014); 38 C.F.R. § 3.159(c).

The Veteran's service treatment records have been obtained. Post-service VA treatment records and private medical records have also been obtained. No additional development is necessary as the claim turns on when a claim was filed and when the Veteran had coronary artery disease. All records potentially relevant to this matter appear to be of record. Thus, VA's duty to assist has been met.

B. Legal Criteria

The assignment of effective dates of awards is generally governed by 38 U.S.C.A. § 5110 (West 2014) and 38 C.F.R. § 3.400 (2015). Unless specifically provided otherwise, the effective date of an award based on an original claim for compensation benefits shall be the date of receipt of the claim or the date

entitlement arose, whichever is later. *See* 38 U.S.C.A. § 5110(a); 38 C.F.R. § 3.400(b)(2).

However, in cases involving presumptive service connection due to herbicide exposure, there is an exception to the provisions set forth above. Following a 2002 decision of the United States Court of Appeals for the Ninth Circuit, VA established regulations pertaining to effective dates for service connection for diseases based on herbicide exposure. *Nehmer v. United States Veterans Administration*, 284 F.3d 158, 1161 (9th Cir. 2002) (*Nehmer III*). A *Nehmer* class member is identified as a Vietnam Veteran who has a covered herbicide-related disease. 38 C.F.R. § 3.816(b)(1)(i) (2015).

According to 38 C.F.R. § 3.816(b)(2) a "covered herbicide disease" includes a disease for which the Secretary of Veterans Affairs has established a presumption of service connection pursuant to the Agent Orange Act of 1991. Ischemic heart disease, to include coronary artery disease, was added to the list of presumptive disabilities on August 31, 2010. 75 Fed. Reg. 53202 (Aug. 31, 2010). Notice accompanying the issuance of the final August 31, 2010 rule specifically notes the *Nehmer* provisions apply to the newly covered diseases, to include coronary artery disease. *Id*.

The regulation applies to claims for disability compensation that were either pending before VA on May 3, 1989, or were received by VA between that date and the effective date of the statute or regulation establishing a presumption of service connection for the covered disease. 38 C.F.R. § 3.816(c).

The regulation provides for situations where the effective date can be earlier than the date of the liberalizing law, assuming a "*Nehmer* class member" has been granted compensation from a covered herbicide disease. The regulation applies to a claim for compensation where either (1) VA denied compensation for the same covered herbicide disease in a decision issued between September 25, 1985 and

May 3, 1989; or (2) the class member's claim for disability compensation for the covered herbicide disease was either pending before VA on May 3, 1989, or was received by VA between May 3, 1989 and the effective date of the statute or regulations establishing a presumption of service connection for the covered disease. In these situations, the effective date of the award will be the later of the date such claim was received by VA or the date entitlement arose. 38 C.F.R. § 3.816(c)(1), (c)(2). If neither circumstance exists, the effective date of the award of service connection shall be determined in accordance with either 38 C.F.R. § 3.114 or § 3.400. *See* 38 C.F.R. § 3.816(c)(4).

Additionally, retroactive effective dates are allowed, to a certain extent, in cases where an award or increase of compensation is granted pursuant to a liberalizing law. 38 U.S.C.A. § 5110(g); 38 C.F.R. § 3.114(a). Under these provisions, the claimant must have met all eligibility criteria for the liberalized benefit on the effective date of the liberalizing law or VA issue, and have been continuously eligible from that date to the date of claim or administrative determination of entitlement. In such cases, the effective date of the award or increase shall be fixed in accordance with the facts found, but shall not be earlier than the effective date of the liberalizing law or VA issue. 38 C.F.R. § 3.114(a). If a claim is reviewed at the claimant's request more than one year after the effective date of the law, the effective date of the award may be one year prior to the date of receipt of such request, if the veteran met all the criteria of the liberalizing law or issue as of the effective date of the liberalizing law. 38 C.F.R. § 3.114(a)(3). As noted above, ischemic heart disease was added to the list of diseases subject to service connection on a presumptive basis, effective August 31, 2010.

C. Analysis

Review of the record reflects that the Veteran filed a claim for VA benefits that was received on May 5, 1994. Pursuant to that claim, the RO obtained VA treatment records of the Veteran that demonstrated that he had a history of myocardial

infarction. Although the May 1994 claim did not expressly reference heart disease, the RO liberally construed the May 5, 1994 statement from the Veteran as including a claim of service connection for heart disease when analyzing this case.

There are no earlier records showing a formal or informal claim of service connection for any claim, including heart disease; however, the appellant contends that as the Veteran suffered a myocardial infarction in April 1990 and was treated by VA following that event, that the April 1990 treatment should be construed as a claim of service connection.

A claim will be considered a claim for compensation for a particular covered herbicide disease if: the claimant's application and other supporting statements and submissions may reasonably be viewed, under the standards ordinarily governing compensation claims, as indicating an intent to apply for compensation for the covered herbicide disability. 38 C.F.R. § 3.816(c)(2)(i).

The RO has already liberally construed the May 1994 application for benefits as including an intent to file a claim of service connection for heart disease. There are no earlier communications from the Veteran that may be construed as indicating an intent to apply for compensation for heart disease.

Although the provisions of 38 C.F.R. § 3.157 allow for a report of examination or hospitalization by VA to be accepted as an informal claim for benefits (without any indication of intent to apply for benefits) in certain instances, the provisions are limited to instances where the Veteran is applying for an increased rating where service connection or pension has already been established, or when a claim for compensation was previously disallowed for the reason that the service-connected disability was not compensable. See *Brannon v. West*, 12 Vet. App. 32, 34-35 (1998) (where appellant had not been granted service connection, mere receipt of medical records could not be construed as an informal claim). In other, words, in order to invoke 38 C.F.R. § 3.157, the Veteran must already be in receipt of

pension, compensation or compensation has been denied because it is non-compensable. Accordingly, the Board finds that the April 1990 VA treatment records cannot be considered a claim of service connection for the Veteran's heart disease. The Board notes that 38 C.F.R. § 3.157 has since been removed from the regulations although it was in effect during the course of this appeal.

The RO established an effective date of May 5, 1994, the date of the Veteran's claim. This effective date was correctly awarded under *Nehmer*. That is, since the Veteran's claim was deemed to have been received between May 3, 1989 and August 31, 2010, his claim for an earlier effective date is covered under *Nehmer* per 38 C.F.R. § 3.816(c)(2). In these situations, by law, the effective date of the award will be the later of the date of claim or the date the disability arose. 38 C.F.R. § 3.816(c)(2). In the present case, the RO determined that the date entitlement arose was the earliest date that a diagnosis of a form of ischemic heart disease, the myocardial infarction, was made. The May 1994 claim came after the April 1990 myocardial infarction. In view of the circumstances that have been outlined, the effective date was correctly assigned under the 38 C.F.R. § 3.816 *Nehmer* provisions. Therefore, since the effective date was awarded under *Nehmer*, it is not necessary to consider the effective date of the award in accordance with the liberalizing law provisions of § 3.114. *See* 38 C.F.R. § 3.816(c)(4).

Accordingly, as the preponderance of the evidence is against an effective date earlier than May 5, 1994 for the award of service connection for coronary artery disease status post myocardial infarction, for accrued benefits purposes, is not warranted. *See* 38 U.S.C.A. § 5107(b); 38 C.F.R. § 3.102.

II. Effective Date—Service Connection for Cause of Death

In a February 2007 rating decision, the Waco, Texas RO granted service connection for the cause of the Veteran's death and assigned an effective date of May 29, 2000. The appellant's mother, who was then her custodian (the appellant did not turn

18 until April 7, 2007), was notified of the rating action in a notice letter dated in February 2007. Neither the appellant nor her mother perfected an appeal regarding the assignment of the effective date.

More than one year later, in March 2012, the appellant submitted a claim that included the issue of entitlement to an effective date earlier than May 29, 2000, for the grant of service connection for the cause of the Veteran's death.

As the appellant did not perfect an appeal of the February 2007 rating decision, it became final prior to the appellant's current March 2012 claim for an earlier effective date. 38 C.F.R. § 20.1103 (2015). An unappealed final rating decision, may be overturned on the basis of clear and unmistakable error (CUE). 38 U.S.C.A. § 5109A (West 2014); 38 C.F.R. § 3.105(a) (2015). The Board notes that the appellant has not filed a motion to revise the February 2007 rating decision based on CUE even with a sympathetic reading of the record.

The appellant filed the current freestanding claim for an earlier effective date in March 2012. A freestanding claim for an earlier effective date is not a proper claim subject to adjudication. *Rudd v. Nicholson*, 20 Vet. App. 296 (2006). Rather, it is instead appropriate to dismiss such a "claim" because it cannot be entertained. *Id.* An appellant can only establish an earlier effective date following a final rating decision through the mechanism of demonstrating CUE in that rating action, and the appellant has not alleged that the February 2007 rating decision contained CUE. Therefore, the appellant's claim of entitlement to earlier effective date for the award of service connection for the cause of the Veteran's death must be dismissed.

ORDER

An effective date prior to May 5, 1994, for the award of service connection for coronary artery disease status post myocardial infarction, for accrued benefits purposes, is denied.

The claim of entitlement to an effective date earlier than May 29, 2000, for the grant of service connection for the cause of the Veteran's death, is dismissed.

REMAND

The appellant contends that the Veteran's service-connected coronary artery disease status post myocardial infarction met the criteria for a rating in excess of 30 percent prior to September 29, 1999.

The available evidence shows that the Veteran suffered an acute myocardial infarction in April 1990. A May 1990 treatment record noted he was prescribed aspirin for treatment of coronary artery disease. Angina was noted in October 1995. Left ventricular enlargement was documented in April 1999. A September 29, 1999 stress test report noted an ejection fraction of 25 percent.

Effective January 12, 1998 (during the time period applicable to this appeal), VA revised the criteria for rating arteriosclerotic heart disease (coronary artery disease). As there is no indication that the revised criteria are intended to have a retroactive effect, the Board has the duty to adjudicate the claim under the former criteria for any portion of the rating period, and to consider the revised criteria for the period beginning on the effective date of the new provisions (from January 12, 1998, to September 29, 1999). *See, e.g., Kuzma v. Principi*, 341 F.3d 1327, 1328 (Fed. Cir. 2003) ("[C]ongressional enactments and administrative rules will not be construed

to have retroactive effect unless their language requires this result.") (citations omitted)).

Former Diagnostic Code 7005 (for arteriosclerotic heart disease) provided a 100 percent disability rating during and for 6 months following acute illness from coronary occlusion or thrombosis, with circulatory shock, etc. A 100 percent disability rating was also warranted after 6 months, with chronic residual findings of congestive heart failure or angina on moderate exertion or more than sedentary employment precluded. A 60 percent disability rating was warranted following typical history of acute coronary occlusion or thrombosis, or with history of substantiated repeated angina attacks, more than light manual labor not feasible. A 30 percent disability rating was warranted following typical coronary occlusion or thrombosis, or with history of substantiated angina attack, ordinary manual labor feasible. 38 C.F.R. § 4.104, Diagnostic Code 7005 (1997).

Effective January 12, 1998, the criteria for rating arteriosclerotic heart disease were amended. Under the current provisions of 38 C.F.R. § 4.104 , Diagnostic Code 7005, arteriosclerotic heart disease characterized by a workload of greater than 7 METs (metabolic equivalent) but not greater than 10 METs which results in dyspnea, fatigue, angina, dizziness, or syncope, or; requires continuous medication, warrants a 10 percent rating. Arteriosclerotic heart disease characterized by a workload of greater than 5 METs but not greater than 7 METs which results in dyspnea, fatigue, angina, dizziness, or syncope, or; with evidence of cardiac hypertrophy or dilatation on electrocardiogram, echocardiogram, or x-ray, warrants a 30 percent rating. Arteriosclerotic heart disease characterized by more than one episode of acute congestive heart failure in the past year, or; a workload of greater than 3 METs but not greater than 5 METs which results in dyspnea, fatigue, angina, dizziness, or syncope, or; left ventricular dysfunction with an ejection fraction of 30 to 50 percent, warrants a 60 percent rating. Arteriosclerotic heart disease characterized by chronic congestive heart failure, or; a workload of 3 METs or less which results in dyspnea, fatigue, angina, dizziness, or syncope, or; left ventricular

dysfunction with an ejection fraction of less than 30 percent, warrants a 100 percent rating.

The Board finds that a retrospective medical assessment regarding the severity of the Veteran's coronary artery disease is necessary in order to properly evaluate the claim. Generally, accrued benefits are evaluated based on the evidence in the file at the date of death. Here, the Board is not creating new evidence, but rather obtaining a medical assessment of the evidence that was already in the file.

Accordingly, this issue is REMANDED for the following action:

> 1. Obtain a retrospective medical assessment for the period from May 5, 1994 through September 28, 1999. The claims file should be reviewed by the appropriate medical professional.
>
> This should include an assessment regarding the severity of the Veteran's coronary artery disease with respect to the relevant rating criteria cited above during this period. In making the assessment, the reviewer should comment on whether the September 29, 1999 stress test report (noting an ejection fraction of 25 percent) is representative of the period since May 5, 1994.
>
> A detailed rationale for any assessment expressed should be set forth. If any assessment cannot be expressed without resorting to speculation, please state why that is so.

2. Finally, readjudicate the issue remaining on appeal. If a benefit sought on appeal remains denied, issue a supplemental statement of the case.

The appellant has the right to submit additional evidence and argument on the matter 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 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).

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RYAN T. KESSEL
Veterans Law Judge, Board of Veterans' Appeals

Department of Veterans Affairs

YOUR RIGHTS TO APPEAL OUR DECISION

The attached decision by the Board of Veterans' Appeals (BVA or Board) is the final decision for all issues addressed in the "Order" section of the decision. The Board may also choose to remand an issue or issues to the local VA office for additional development. If the Board did this in your case, then a "Remand" section follows the "Order." However, you cannot appeal an issue remanded to the local VA office because a remand is not a final decision. *The advice below on how to appeal a claim applies only to issues that were allowed, denied, or dismissed in the "Order."*

If you are satisfied with the outcome of your appeal, you do not need to do anything. We will return your file to your local VA office to implement the BVA's decision. However, if you are not satisfied with the Board's decision on any or all of the issues allowed, denied, or dismissed, you have the following options, which are listed in no particular order of importance:

- Appeal to the United States Court of Appeals for Veterans Claims (Court)
- File with the Board a motion for reconsideration of this decision
- File with the Board a motion to vacate this decision
- File with the Board a motion for revision of this decision based on clear and unmistakable error.

Although it would not affect this BVA decision, you may choose to also:

- Reopen your claim at the local VA office by submitting new and material evidence.

There is *no* time limit for filing a motion for reconsideration, a motion to vacate, or a motion for revision based on clear and unmistakable error with the Board, or a claim to reopen at the local VA office. None of these things is mutually exclusive - you can do all five things at the same time if you wish. However, if you file a Notice of Appeal with the Court and a motion with the Board at the same time, this may delay your case because of jurisdictional conflicts. If you file a Notice of Appeal with the Court ***before*** you file a motion with the BVA, the BVA will not be able to consider your motion without the Court's permission.

How long do I have to start my appeal to the court? You have **120 days** from the date this decision was mailed to you (as shown on the first page of this decision) to file a Notice of Appeal with the Court. If you also want to file a motion for reconsideration or a motion to vacate, you will still have time to appeal to the court. *As long as you file your motion(s) with the Board within 120 days of the date this decision was mailed to you,* you will have another 120 days from the date the BVA decides the motion for reconsideration or the motion to vacate to appeal to the Court. You should know that even if you have a representative, as discussed below, *it is your responsibility to make sure that your appeal to the Court is filed on time*. Please note that the 120-day time limit to file a Notice of Appeal with the Court does not include a period of active duty. If your active military service materially affects your ability to file a Notice of Appeal (e.g., due to a combat deployment), you may also be entitled to an additional 90 days after active duty service terminates before the 120-day appeal period (or remainder of the appeal period) begins to run.

How do I appeal to the United States Court of Appeals for Veterans Claims? Send your Notice of Appeal to the Court at:

Clerk, U.S. Court of Appeals for Veterans Claims
625 Indiana Avenue, NW, Suite 900
Washington, DC 20004-2950

You can get information about the Notice of Appeal, the procedure for filing a Notice of Appeal, the filing fee (or a motion to waive the filing fee if payment would cause financial hardship), and other matters covered by the Court's rules directly from the Court. You can also get this information from the Court's website on the Internet at: http://www.uscourts.cavc.gov, and you can download forms directly from that website. The Court's facsimile number is (202) 501-5848.

To ensure full protection of your right of appeal to the Court, you must file your Notice of Appeal **with the Court**, not with the Board, or any other VA office.

How do I file a motion for reconsideration? You can file a motion asking the BVA to reconsider any part of this decision by writing a letter to the BVA clearly explaining why you believe that the BVA committed an obvious error of fact or law, or stating that new and material military service records have been discovered that apply to your appeal. It is important that such letter be as specific as possible. A general statement of dissatisfaction with the BVA decision or some other aspect of the VA claims adjudication process will not suffice. If the BVA has decided more than one issue, be sure to tell us which issue(s) you want reconsidered. Issues not clearly identified will not be considered. Send your letter to:

Director, Management, Planning and Analysis (014)
Board of Veterans' Appeals
810 Vermont Avenue, NW
Washington, DC 20420

Remember, the Board places no time limit on filing a motion for reconsideration, and you can do this at any time. However, if you also plan to appeal this decision to the Court, you must file your motion within 120 days from the date of this decision.

How do I file a motion to vacate? You can file a motion asking the BVA to vacate any part of this decision by writing a letter to the BVA stating why you believe you were denied due process of law during your appeal. *See* 38 C.F.R. 20.904. For example, you were denied your right to representation through action or inaction by VA personnel, you were not provided a Statement of the Case or Supplemental Statement of the Case, or you did not get a personal hearing that you requested. You can also file a motion to vacate any part of this decision on the basis that the Board allowed benefits based on false or fraudulent evidence. Send this motion to the address above for the Director, Management, Planning and Analysis, at the Board. Remember, the Board places no time limit on filing a motion to vacate, and you can do this at any time. However, if you also plan to appeal this decision to the Court, you must file your motion within 120 days from the date of this decision.

How do I file a motion to revise the Board's decision on the basis of clear and unmistakable error? You can file a motion asking that the Board revise this decision if you believe that the decision is based on "clear and unmistakable error" (CUE). Send this motion to the address above for the Director, Management, Planning and Analysis, at the Board. You should be careful when preparing such a motion because it must meet specific requirements, and the Board will not review a final decision on this basis more than once. You should carefully review the Board's Rules of Practice on CUE, 38 C.F.R. 20.1400 -- 20.1411, and *seek help from a qualified representative before filing such a motion.* See discussion on representation below. Remember, the Board places no time limit on filing a CUE review motion, and you can do this at any time.

How do I reopen my claim? You can ask your local VA office to reopen your claim by simply sending them a statement indicating that you want to reopen your claim. However, to be successful in reopening your claim, you must submit new and material evidence to that office. *See* 38 C.F.R. 3.156(a).

Can someone represent me in my appeal? Yes. You can always represent yourself in any claim before VA, including the BVA, but you can also appoint someone to represent you. An accredited representative of a recognized service organization may represent you free of charge. VA approves these organizations to help veterans, service members, and dependents prepare their claims and present them to VA. An accredited representative works for the service organization and knows how to prepare and present claims. You can find a listing of these organizations on the Internet at: http://www.va.gov/vso/. You can also choose to be represented by a private attorney or by an "agent." (An agent is a person who is not a lawyer, but is specially accredited by VA.)

If you want someone to represent you before the Court, rather than before the VA, you can get information on how to do so at the Court's website at: http://www.uscourts.cavc.gov. The Court's website provides a state-by-state listing of persons admitted to practice before the Court who have indicated their availability to the represent appellants. You may also request this information by writing directly to the Court. Information about free representation through the Veterans Consortium Pro Bono Program is also available at the Court's website, or at: http://www.vetsprobono.org, mail@vetsprobono.org, or (855) 446-9678.

Do I have to pay an attorney or agent to represent me? An attorney or agent may charge a fee to represent you after a notice of disagreement has been filed with respect to your case, provided that the notice of disagreement was filed on or after June 20, 2007. *See* 38 U.S.C. 5904; 38 C.F.R. 14.636. If the notice of disagreement was filed before June 20, 2007, an attorney or accredited agent may charge fees for services, but only after the Board first issues a final decision in the case, and only if the agent or attorney is hired within one year of the Board's decision. *See* 38 C.F.R. 14.636(c)(2).

The notice of disagreement limitation does not apply to fees charged, allowed, or paid for services provided with respect to proceedings before a court. VA cannot pay the fees of your attorney or agent, with the exception of payment of fees out of past-due benefits awarded to you on the basis of your claim when provided for in a fee agreement.

Fee for VA home and small business loan cases: An attorney or agent may charge you a reasonable fee for services involving a VA home loan or small business loan. *See* 38 U.S.C. 5904; 38 C.F.R. 14.636(d).

Filing of Fee Agreements: In all cases, a copy of any fee agreement between you and an attorney or accredited agent must be sent to the Secretary at the following address:

Office of the General Counsel (022D)
810 Vermont Avenue, NW
Washington, DC 20420

The Office of General Counsel may decide, on its own, to review a fee agreement or expenses charged by your agent or attorney for reasonableness. You can also file a motion requesting such review to the address above for the Office of General Counsel. *See* 38 C.F.R. 14.636(i); 14.637(d).