BOARD OF VETERANS' APPEALS

DEPARTMENT OF VETERANS AFFAIRS

IN THE APPEAL OF
JOHNNIE E. JORDAN [redacted]
REPRESENTED BY
Carol J. Ponton, Attorney

Docket No. 11-31 561

DATE: August 27, 2018

ORDER

1. Entitlement to service connection for sleep apnea, to include as secondary to service-connected sinus condition is denied.

2. Entitlement to an increased rating in excess of 10 percent prior to April 21, 2017, and in excess of 30 percent thereafter for post-concussive headaches (headaches) is denied.

FINDINGS OF FACT

1. The Veteran's sleep apnea is neither proximately due to nor aggravated beyond its natural progression by his service-connected sinus condition, and is not otherwise related to an in-service injury, event, or disease.

2. Prior to April 21, 2017, the Veteran's headaches were not manifested by migraine headaches with characteristic prostrating attacks occurring on an average once a month over last several months. From April 21, 2017, the Veteran's headaches were not manifested by migraine headaches with very frequent completely prostrating and prolonged attacks productive of severe economic inadaptability.

CONCLUSIONS OF LAW

1. The criteria for entitlement to service connection for sleep apnea, to include as secondary to service-connected sinus condition, have not been met. 38 U.S.C. §§ 1110, 113, 5107(b); 38 C.F.R. §§ 3.102, 3.310(a).

2. The criteria for entitlement to an increased rating in excess of 10 percent prior to April 21, 2017, and in excess of 30 percent thereafter for post-concussive headaches have not been met. 38 U.S.C. §§ 1155, 5107; 38 C.F.R. §§ 4.1-4.14, 4.124a, Diagnostic Code (DC) 8100.

REASONS AND BASES FOR FINDINGS AND CONCLUSIONS

The Veteran served on active duty in the United States Marine Corps from August 1981 to December 1992.

The Veteran testified at a video conference hearing before the undersigned Veteran's Law Judge in April 2017. A transcript of the hearing was prepared and associated with the claims file.

These issues were remanded for further development in August 2017. In an April 2018 VA Form 9, the Veteran indicated that he wished to have another Board hearing. In a letter attached to the form, the Veteran's representative reiterated the new request for a Board hearing. The law does not require that the Veteran be afforded a second hearing merely because he requests one. Rather, he must demonstrate good cause. *See* 38 C.F.R. § 20.1304(b). The Veteran has not identified why he would like a second hearing. As he has not shown good cause as to why a second hearing should be warranted, his request is denied.

The Board notes that in response to the April 2018 rating decision, the Veteran has submitted notices of disagreement and VA Form 9. However, the only issue decided in the April 2018 rating decision was an increased rating for the Veteran's service-connected headaches. As discussed in the rating decision, this issue is already on appeal. The rating decision states, in relevant part, "This decision

represents a partial grant of the benefits sought on appeal for this issue, as you were not awarded the maximum benefit provided by the rating schedule. The claim is still considered to be in appellate status and further processing will continue unless you advise us that you are now satisfied with this decision."

These submissions indicate that the Veteran is also seeking an earlier effective date for his headache disability rating. However, this is not a new claim or a new appeal. The Veteran is seeking ratings in excess of those assigned by the Agency of Original Jurisdiction for the service-connected headaches throughout the appeal period (10 percent and 30 percent). The Veteran's allegations of entitlement to higher ratings and an earlier effective date for the award of the higher rating are part of the current appeal.

Service Connection

Service connection may be granted for a disability resulting from a disease or injury incurred in or aggravated by service. *See* 38 U.S.C. §§ 1110, 1131; 38 C.F.R. § 3.303(a). To establish a right to compensation for a present disability, a veteran must show: (1) the existence of a present disability; (2) in-service incurrence or aggravation of a disease or injury; and (3) a causal relationship between the present disability and the disease or injury incurred or aggravated during service. Disorders diagnosed after discharge will still be service connected if all the evidence, including that pertinent to service, establishes that the disease was incurred in service. 38 C.F.R. § 3.303(d).

Service connection may also be granted for a disability that is proximately due to or the result of a service-connected disease or injury. 38 C.F.R. § 3.310(a). When service connection is established for a secondary disability, the secondary disability shall be considered a part of the original disability. *Id.* Establishing service connection on a secondary basis requires evidence sufficient to show (1) that a current disability exists and (2) that the current disability was either (a) proximately caused by or (b) proximately aggravated by a service-connected disability.

When all the evidence is assembled, the Board is then responsible for determining whether the evidence supports the claim or is in relative equipoise, with the

Veteran prevailing in either event, or whether the preponderance of the evidence is against the claim, in which case the claim is denied. 38 U.S.C. § 5107; 38 C.F.R. § 3.102.

1. Entitlement to service connection for sleep apnea, to include as secondary to service-connected sinus condition

The Board has carefully reviewed the evidence of record and finds that the preponderance of the evidence is against the award of service connection for sleep apnea on either a direct or secondary basis. The reasons follow.

The Veteran has been diagnosed with sleep apnea, and thus there is evidence of a current disability.

The Board notes that the Veteran originally claimed service connection for sleep apnea only on a secondary basis. However, at the April 2017 Board hearing, the Veteran included a contention of direct service connection. *See* Hearing Transcript at 14. Additionally, in the August 2017 VA examination the examiner discussed direct service connection. Accordingly, the direct theory of entitlement has been raised by the record and the Board will perform the related analysis.

As to direct service incurrence, the Veteran's claim fails on both the in-service disease or injury and the nexus to service.

The Veteran contends that he was exposed to jet fumes during service, resulting in sinus problems that later caused his sleep apnea. The service treatment records (STRs) do not support complaints, symptoms, diagnosis or treatment related to sleep apnea. Furthermore, although not directly related to sleep apnea, the Veteran denied a history of trouble with sleeping on Reports of Medical History in October 1980, January 1989, and October 1992. The evidence tends to weigh against a finding that he had sleep apnea in service.

In the April 2017 Board hearing, the Veteran stated that he snored during service, which he contended was evidence of sleep apnea.

As to a nexus to service, at the August 2017 VA examination, the examiner noted that the Veteran's sleep apnea was first diagnosed in 2007, which is approximately

15 years following service discharge, and tends to establish that sleep apnea did not have its onset in service. The examiner stated that due to the late onset of the disability, it was less likely than not that his sleep apnea was incurred in related to service. The examiner noted that symptoms of snoring are not diagnostic of sleep apnea, and stated that the article supplied by the Veteran supported the examiner's opinion.

In a private medical record from March 1997, a private examiner noted that the Veteran may have a diagnosis of sleep apnea. An August 1997 private medical record suggested that the Veteran's sleep apnea and sinus condition were related. However, in an April 1998 private medical record, the private examiner noted that the Veteran did not attend follow-up appointments to confirm the diagnosis of sleep apnea. The August 2017 VA examiner concluded that it is not likely that the Veteran had sleep apnea back in 1998, because his 2007 sleep study was just over the threshold to diagnose sleep apnea.

To the extent that the Veteran had implied that sleep apnea had its onset in service, his service treatment records do not support such a finding. To the extent that the Veteran has implied that sleep apnea is otherwise related to service, his allegation is outweighed by that of the August 2017 examiner, who provided the opinion that sleep apnea was not related to service and provided a rationale for the opinion.

As to secondary service connection, in the August 2017 VA examination report, the examiner concluded that sleep apnea could not be related to a sinus condition, because the Veteran's sleep apnea historically followed a natural progression. With respect to the articles submitted by the Veteran, the examiner explained that while soft tissue abnormalities are an established risk factor for the development of sleep apnea, the Veteran had no significant abnormalities that would account for this development. The examiner noted that the Veteran's sinus condition had not resulted in any nasal obstruction. To the extent that the Veteran has implied that sleep apnea is otherwise related to the service-connected sinus condition, his allegation is outweighed by that of the August 2017 examiner, who provided the opinion that sleep apnea was not proximately due to or aggravated by the sinus condition and provided a rationale for the conclusion.

In sum, the Board concludes that the preponderance of the evidence of record is against the Veteran's claim for service connection for sleep apnea. The benefit-of-the-doubt doctrine enunciated in 38 U.S.C. § 5107(b) is not applicable, as there is no approximate balance of evidence.

Increased Rating

Disability evaluations are determined by evaluating the extent to which a Veteran's service-connected disability adversely affects the Veteran's ability to function under the ordinary conditions of daily life, including employment, by comparing the Veteran's symptomatology with the criteria set forth in the Schedule for Rating Disabilities. 38 C.F.R. Part 4. The percentage ratings represent as far as can practicably be determined the average impairment in earning capacity resulting from such diseases and injuries and the residual conditions in civilian occupations. Generally, the degree of disabilities specified are considered adequate to compensate for considerable loss of working time from exacerbation or illness proportionate to the severity of the several grades of disability. 38 U.S.C. § 1155; 38 C.F.R. § 4.1. Any reasonable doubt regarding the degree of disability will be resolved in favor of the Veteran. 38 C.F.R. § 4.3.

The evaluation of the same disability under several DCs, known as pyramiding, must be avoided. 38 C.F.R. § 4.14. Separate ratings may be assigned for distinct disabilities resulting from the same injury so long as the symptomatology for one condition is not duplicative of or overlapping with the symptomatology of the other condition. *Id.*

2. Entitlement to an increased rating in excess of 10 percent prior to April 21, 2017, and in excess of 30 percent thereafter for post-concussive headaches

In an August 1993 rating decision, the Veteran was granted service connection for head injury with headaches with a 10 percent evaluation, effective December 29, 1992. In July 2009, the Veteran applied for an increased rating for his headaches. However, the July 2009 rating decision and September 2011 statement of the case characterized the issue of headaches as an original service connection claim. Accordingly, the August 2017 Board decision remanded the case so that the AOJ could evaluate the Veteran's claim as an increased rating claim. In the April 2018

rating decision, the Veteran's was granted a 30 percent evaluation, effective April 21, 2017.

The Veteran's headaches are rated under 38 C.F.R. § 4.124a, DC 8100. Under this code, a 10 percent rating is warranted for migraine headaches with characteristic prostrating attacks averaging one in 2 months over last several months, a 30 percent rating is warranted for migraine headaches with characteristic prostrating attacks occurring on an average once a month over a period of several months. The maximum rating of 50 percent is warranted for migraine headaches with very frequent completely prostrating and prolonged attacks productive of severe economic inadaptability.

The Board notes that the criteria for a 50 percent rating are written in the conjunctive; thus, all criteria must be met. Additionally, the rating criteria do not define "prostrating" attacks. "Prostration" is defined as "extreme exhaustion or powerlessness." *See Dorland's Illustrated Medical Dictionary 1531* (32nd ed. 2012). This is consistent with medical guidance used by the VA Compensation Service which suggests that "[a] prostrating migraine may be described as a condition that causes lack of strength to the point of exhaustion." *See VA Compensation Service's Medical Electronic Performance Support System* (2015). Likewise, the rating criteria also do not define "severe economic inadaptability."

A. Prior to April 21, 2017

The Board has carefully reviewed the evidence of record and finds that the preponderance of the evidence is against the award of an increased rating in excess of 10 percent for headaches prior to April 21, 2017. The reasons follow.

The evidence indicates that the Veteran's disability is manifested with occasional headaches, but does not result characteristic prostrating attacks occurring on an average once a month over a period of several months to warrant a 30 percent rating. At worst, the Veteran's headaches were intermittent, with a frequency of four to five a year, during this part of the appeal period. For example, in a March 2017 VA treatment record, the Veteran stated that he suffers from bilateral headaches occurring four to five times a year, which last up to three hours, and are resolved by the Veteran laying down in a dark room. The VA treatment provider suggested that the Veteran may have the cluster headache variant of migraines.

The Board notes that in this same VA treatment record, the Veteran complained of right-sided headaches lasting for one and a half weeks, with intermittently sharp pains every fifteen minutes, lasting for 30 seconds. The Veteran stated that he went to the emergency room for this incident, and although he had slurred speech, his face was twisted on the right side, and had right upper extremity weakness, he had normal CAT scan results. The Veteran reported to the examiner that this incident was found to be related to his service-connected sinus condition. As this episode has been attributed to another service-connected disability, and the law against pyramiding does not allow a veteran to be compensated twice for the same disability or symptomatology, the Board finds that this incident may not be considered when evaluating the Veteran's headaches.

At the April 2017 Board hearing, the Veteran stated he had a stroke "several years ago." Although he did not specify when the stroke occurred. The Veteran does not contend, and the record does not support, that his stroke is a symptom of, or is otherwise related to, his headaches.

However, even if the March 2017 VA treatment record was found to be solely related to the Veteran's headaches, the Veteran only suffered a single incident of a prolonged attack, and the evidence does not support that the Veteran suffered from

severe economic inadaptability from this occurrence. Accordingly, this record does not support a finding of migraine headaches with very frequent completely prostrating and prolonged attacks productive of severe economic inadaptability to warrant a 50 percent rating.

In a May 2009 statement, the Veteran stated that he was required to take leave through the Family and Medical Leave Act (FMLA) to recover from his headaches, generally contending that his disability severely interfered with his employment. The Veteran also stated that he has otherwise foregone treatment in order to protect his job. However, the record indicates numerous private medical and VA treatment records throughout this part of the appeal period. The Veteran does not report any other detriment to his employment due to his headaches. Accordingly, the Veteran's contention is outweighed by the evidence of record, and his statement does not support a finding of migraine headaches with very frequent completely prostrating and prolonged attacks productive of severe economic inadaptability to warrant a 50 percent rating.

While other VA treatment records contain complaints of headaches, the complaints do not support migraine headaches with characteristic prostrating attacks occurring on an average once a month over a period of several months to support a 30 percent rating.

To the extent that the evidence of record documents some of the symptoms included in the individual rating criteria for an increased 30 percent or 50 percent disability rating, the Board finds it highly probative that such symptoms have not resulted in overall impairment to the required level of severity so as to warrant an increased disability rating.

In sum, the evidence does not show that a disability rating in excess of 10 percent for headaches is warranted prior to April 21, 2017. As the preponderance of the evidence is against the claim for a higher rating, the benefit of the doubt doctrine is not for application, and the Veteran's claim for an increased rating is denied. *See* 38 U.S.C. § 5107(b); 38 C.F.R. §§ 3.102, 4.3.

B. From April 21, 2017

The Board has carefully reviewed the evidence of record and finds that the preponderance of the evidence is against the award of an increased rating in excess of 30 percent for headaches spine from April 21, 2017. The reasons follow.

The evidence indicates that the Veteran's headaches manifest with characteristic prostrating attacks once every month for the last several months for this part of the appeal period, but do not result in migraine headaches with very frequent completely prostrating and prolonged attacks productive of severe economic inadaptability, to warrant a 50 percent rating. At worst, the Veteran has reported intermittent severe headaches between three and four times a month that occur for up to two hours, as mentioned in the August 2017 VA examination, but has not complained of prolonged attacks productive of severe economic inadaptability.

The Veteran reported that his headaches last up to two hours. However, the examiner noted that the prostrating attacks only occur on average once a month. Accordingly, while the Veteran has frequent headaches that last for up to two hours, his prostrating attacks only occur, on average, on a monthly basis. This evidence weighs against a finding of very frequent completely prostrating and prolonged attacks.

The Board notes that during the April 2017 Board hearing, the Veteran reported that he suffers from prostrating attacks three or four times a month. However, as mentioned above, at the August 2017 VA examination, the Veteran reported that his prostrating attacks occur only once a month. As the Veteran's statement at the Board hearing is inconsistent with his report at the VA examination, the Board affords his statement no probative value. However, even if the Veteran's statement at the Board hearing is accepted, the evidence does not support a finding of severe economic inadaptability.

During the August 2017 VA examination, the Veteran mentioned that the is employed as an EEO counselor for the United States Postal Service. Previous records indicate that the Veteran has been working since at least April 2007. While the Veteran does report a single incident of taking FMLA leave in May 2009 to treat his disability, the record shows that the Veteran is still currently employed and has not lost his job due to symptoms or treatment related to his headaches. At the April 2017 Board hearing, the Veteran testified that he has his own office at

work, and is able to deal with his symptoms privately in his office and without missing work. The fact that the Veteran demonstrated employment with the same employer for at least 10 years, and his employer has given him a space to accommodate his disability, the evidence weighs against a finding of severe economic inadaptability.

As mentioned above, as the criteria are written conjunctively, all of the symptoms must be present to establish the criteria for a 50 percent rating.

In sum, the evidence does not show that a disability rating in excess of 30 percent for headaches spine is warranted. As the preponderance of the evidence is against the claim for a higher rating, the benefit of the doubt doctrine is not for application, and the Veteran's claim for an increased rating is denied. *See* 38 U.S.C. § 5107(b); 38 C.F.R. §§ 3.102, 4.3.

A. P. SIMPSON
Veterans Law Judge
Board of Veterans' Appeals

ATTORNEY FOR THE BOARD R. Husain, Associate Counsel

YOUR RIGHTS TO APPEAL OUR DECISION

The attached decision by the Board of Veterans' Appeals (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. Your local VA office will implement the Board'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. Please note that if you file a Notice of Appeal with the Court and a motion with the Board at the same time, this may delay your appeal at the Court because of jurisdictional conflicts. If you file a Notice of Appeal with the Court ***before*** you file a motion with the Board, the Board will not be able to consider your motion without the Court's permission or until your appeal at the Court is resolved.

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 Board 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 Board to reconsider any part of this decision by writing a letter to the Board clearly explaining why you believe that the Board 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 your letter be as specific as possible. A general statement of dissatisfaction with the Board decision or some other aspect of the VA claims adjudication process will not suffice. If the Board 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:

Litigation Support Branch
Board of Veterans' Appeals
P.O. Box 27063
Washington, DC 20038

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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 Board to vacate any part of this decision by writing a letter to the Board 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 on the previous page for the Litigation Support Branch, 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 on the previous page for the Litigation Support Branch, 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 Board, 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: If you hire an attorney or agent to represent you, a copy of any fee agreement must be sent to VA. The fee agreement must clearly specify if VA is to pay the attorney or agent directly out of past-due benefits. See 38 C.F.R. 14.636(g)(2). If the fee agreement provides for the direct payment of fees out of past-due benefits, a copy of the direct-pay fee agreement must be filed with the agency of original jurisdiction within 30 days of its execution. A copy of any fee agreement that is not a direct-pay fee agreement must be filed with the Office of the General Counsel within 30 days of its execution by mailing the copy to the following address: Office of the General Counsel (022D), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420. See 38 C.F.R. 14.636(g)(3).

The Office of the 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 the General Counsel. See 38 C.F.R. 14.636(i); 14.637(d).