

Not published

UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS

NO. 14-4085

BARRY D. BRAAN,

APPELLANT,

v.

ROBERT A. McDONALD,
SECRETARY OF VETERANS AFFAIRS,

APPELLEE.

ORDER

*Note: Pursuant to U.S. Vet. App. R. 30(a),
this action may not be cited as precedent.*

Veteran Barry D. Braan appeals through counsel an October 20, 2014, Board of Veterans' Appeals (Board) decision that denied basic entitlement to Civilian Health and Medical Program of the Department of Veterans Affairs (CHAMPVA) benefits for his spouse under 38 U.S.C. § 1781. Oral argument in this case is set for Thursday, June 30, 2016, at 10:00 a.m.

To assist the Court in the resolution of this matter, counsel for each party should be prepared to discuss, in addition to the other issues briefed, the following issues:

- A) Whether the appellant has standing in this matter, in light of the fact that the initial adverse decision was issued to the appellant's spouse but the Board decision was issued to the appellant.
- B) Whether the Court has jurisdiction over this matter, in light of the fact that the initial adverse decision was issued to the appellant's spouse but the Board decision was issued to the appellant.
- C) The significance, if any, of the language of 38 C.F.R. § 17.276, which describes the process for appealing CHAMPVA benefits and uses both the terms "claimant" and "beneficiary" in referencing the proper party in that process.
- D) The significance, if any, of the language of 38 C.F.R. § 17.271, which describes the persons who are "eligible for CHAMPVA benefits," including spouses, surviving spouses, and children of veterans but not including veterans themselves.

In addition, counsel for the Secretary should be prepared to discuss the following issues raised by the June 9, 2016, notice filed by the appellant pursuant to *Solze v. Shinseki*, 26 Vet.App. 299, 301 (2013):

- A) Whether the appellant is currently classified as totally and permanently disabled as a result of his 100% rating under 38 U.S.C. § 1151;
- B) Whether he was ever classified as totally and permanently disabled as a result of his 100% rating under 38 U.S.C. § 1151;
- C) VA's authority and reasoning for changing any such classification, as illustrated by the VA summary of benefit letters cited by the appellant. *See* Appellant's Notice, Appendix 1-2; and
- D) Whether potential eligibility for CHAMPVA benefits during the period on appeal could be affected by the June 9, 2016, notice.

Upon consideration of the foregoing, it is hereby

ORDERED that counsel be prepared to discuss the above issues, in addition to the other issues briefed, at oral argument.

DATED: June 21, 2016

PER CURIAM

Copies to:

Robert V. Chisholm, Esq.

VA General Counsel (027)