

**IN THE UNITED STATES COURT OF APPEALS
FOR VETERANS CLAIMS**

MICHELE M. BOLDS,)	
)	
Appellant,)	
)	
v.)	Vet. App. No. 22-2484
)	
DENIS MCDONOUGH,)	
Secretary of Veterans Affairs,)	
)	
Appellee.)	

APPELLEE’S SOLZE NOTICE TO THE COURT

Pursuant to this Court’s holding in *Solze v. Shinseki*, 26 Vet.App. 299, 301 (2013), that, “in all cases before this Court, the parties are under a duty to notify the Court of developments that could deprive the Court of jurisdiction or otherwise affect its decision,” the Secretary of Veterans Affairs, Denis McDonough, files this notice in accordance with such directive.

The April 22, 2022, Board of Veterans’ Appeals (Board) decision on appeal concerns the claims of entitlement to service connection for (i) ovarian cancer or pre cancerous cells, (ii) a miscarriage, (iii) fallopian tube endometriosis, and (iv) a uterine cyst. Further, Appellant’s argument in her initial brief, in part, references her claims of entitlement to service connection for left bicep tendinitis, a left rotator cuff disability, a right hammer toe disability, and vocal cord polyps. See Appellant’s Brief at 13-17. As outlined in Appellee’s brief submitted to the Court on February 2, 2023, the record before the agency (RBA) contains a relevant November 2021 supplemental claim of entitlement to service connection for a uterine cyst, fallopian

tube endometriosis, miscarriage, ovarian cancer or precancerous cells, left bicep tendinitis and left rotator cuff disability, vocal cord polyps, and right hammer toe disability, as well as rating decisions and a notice of disagreement (NOD) regarding such claims.

On that same day, the Secretary also informed that additional, relevant documents were created and submitted after the April 22, 2022, Board decision on appeal and, therefore, are not included in the RBA. Particularly, the Veterans Benefits Management System (VBMS) showed that in May 2022, Appellant submitted a NOD that appealed to the Board the Department of Veterans Affairs Regional Office's March 2022 denial of entitlement to service connection for gynecological conditions and vocal cord polyps and selected the Board hearing option. See February 2, 2023, *Solze* Notice Exhibit A. It also showed that in August 2022 and in response to the March 2022 rating decision, Appellant submitted a supplemental claim of entitlement to service connection for left shoulder conditions and right foot hammer toe, February 2, 2023, *Solze* Exhibit B, and Appellant's supplemental claim was adjudicated in a November 2022 rating decision, February 2, 2023, *Solze* Exhibit C.

Since that time, VBMS shows more relevant documents that have been created after the April 22, 2022, Board decision. Specifically, it shows that the Board sent Appellant and her counsel a letter in May 2022 informing that it had received her Board Appeal request (VA Form 10182) and that her appeal has been

placed on the Hearing docket¹. Exhibit A. It also shows that Appellant submitted a Decision Review Request: Board Appeal (VA Form 10182) to the Board in January 2023 regarding the issues of entitlement to service connection for left shoulder conditions and right foot hammer toe as adjudicated in the November 2022 rating decision. Exhibit B; see *also* February 2, 2023, *Solze* Exhibit C (November 2022 rating decision). Finally, VBMS reflects that the Board sent Appellant and her counsel a letter in February 2023 informing that it had received her Board Appeal request (VA Form 10182) and that her appeal has been placed on the Hearing docket². Exhibit C.

The Secretary submits these documents, consistent with the Court's holding in *Solze*, as they provide important context to the procedural history of Appellant's November 2021 supplemental claim and to issues in this appeal pertaining to due process and prejudice, which may "otherwise affect [the Court's] decision." *Solze*, 26 Vet.App. at 301.

WHEREFORE, the Secretary respectfully notifies the Court of the above, relevant developments in this case.

¹ The Secretary notes that the Board's letter is in response to Appellant's May 2022 NOD challenging the March 2022 rating decision denying entitlement to service connection for gynecological conditions and vocal cord polyps. See February 2, 2023, *Solze* Exhibit A.

² The Secretary notes that the Board's letter is in response to Appellant's January 2023 NOD challenging the November 2022 rating decision denying entitlement to service connection for left shoulder conditions and right foot hammer toe. See February 2, 2023, *Solze* Exhibit C.

Respectfully submitted,

RICHARD J. HIPOLIT

Deputy General Counsel for Veterans
Programs

MARY ANN FLYNN

Chief Counsel

/s/ Sarah W. Fusina

SARAH W. FUSINA

Deputy Chief Counsel

/s/ Jonathan G. Scruggs

JONATHAN G. SCRUGGS

Senior Appellate Counsel
Office of the General Counsel (027H)
U.S. Department of Veterans Affairs
810 Vermont Avenue, NW
Washington, DC 20420
(202) 632-4390

Attorneys for Appellee
Secretary of Veterans Affairs

Exhibit A

MICHELE M. BOLDS
PO BOX 310172
HOUSTON, TX 77231

JONATHAN HOWARD DAVIS, Attorney
Jonathan H. Davis
Veteran Esquire Legal Sol., PLLC
6303 Blue Lagoon Drive, Suite 400
Miami, FL 33126



DEPARTMENT OF VETERANS AFFAIRS
Board of Veterans' Appeals
Washington, DC

May 18, 2022

In Reply Refer To: 014CREB
SS [REDACTED]

MICHELE M. BOLDS
PO BOX 310172
HOUSTON, TX 77231

Dear: MICHELE M. BOLDS

The Board of Veterans' Appeals received your Board Appeal request (VA Form 10182). Based on the Board appeal option you selected on the form, your appeal has been placed on the Hearing docket.

What happens next?

You will receive a letter from the Board when your hearing is scheduled. While not required, you have the option to submit new evidence during your hearing or within 90 days after the date of your hearing. Any evidence submitted after the date of the decision you are appealing but prior to the date of your hearing cannot be considered by the Veterans Law Judge. You can start preparing evidence now, but you can only submit it during your hearing or within 90 days after the date of your hearing. If you do not appear for your scheduled hearing, and the hearing is not rescheduled, you may submit evidence within 90 days following the date of the scheduled hearing.

You may also choose to withdraw your hearing request. If you choose to withdraw your hearing request, you can only submit evidence within 90 days following the Board's receipt of your hearing withdrawal.

What if I want to change my Board appeal request by switching AMA dockets?

You may request to change from one Board AMA docket to another by submitting a new VA Form 10182 with the new docket choice and a list of issues you want considered under the new docket. You can only switch from one AMA docket to another if you have not had a hearing or submitted evidence following the Board's receipt of your original VA Form 10182.

Typically, requests to change AMA dockets must be filed at the Board within 60 days of the date the Board received the VA Form 10182 that you have already submitted, or within one year of the VA decision being appealed, whichever date is later. However, **you may submit a good cause extension request.** To request an extension of time to submit a VA Form 10182 docket switch request, please note the reasons why you believe there is good cause on or with your VA Form 10182 docket switch request.

What if I would like my case advanced on the Board's docket?

If you are suffering from a serious illness, or you are under severe financial hardship, or have other sufficient cause, you can request to have your appeal "Advanced on the Docket," or moved to the front of the line. If you are age 75 or older, your appeal will automatically be prioritized, and you do not have to submit anything further.

If applicable, you may submit a brief explanation of the reasons why the Board should prioritize your case. You must include documentation that supports your explanation. For example, if you have:

- **Severe financial hardship:** Examples of evidence you may submit to demonstrate severe financial hardship include, but are not limited to, evidence of homelessness, a bankruptcy petition, or a home foreclosure or eviction notice.
- **Serious illness:** Examples of evidence you may submit to demonstrate serious illness include, but are not limited to, a physician's statement documenting terminal or serious illness, preferably with clinical findings.

What if I want to change my representation?

You have 90 days from the date the Board receives your Board Appeal request (VA Form 10182) or until the Board issues a decision (whichever comes first) to change your representative. To change your representative, please submit a VA Form 21-22 if you would like to appoint a Veterans Service Organization (VSO), or a VA Form 21-22a if you would like to appoint an individual (to include an accredited claims agent or attorney) as your representative. For a comprehensive list of attorneys and VSOs please visit <http://www.va.gov/ogc/apps/accreditation/index.asp>.

How do I send documents to the Board?

All correspondence, requests, and evidence you send to the Board should include your name, the Veteran's name (if you are not the Veteran), and your VA file number. Mail or fax documents to:

Board of Veterans' Appeals
P.O. Box 27063
Washington, DC 20038
Fax: 1-844-678-8979

What if I have questions?

If you have any questions about your appeal, contact your representative (if you have one) or visit <http://www.va.gov/decision-reviews>. You may also contact VA at **1-800-827-1000** from 8:00 a.m. to 9:00 p.m. (ET), Monday through Friday. To check the status of your appeal, visit <http://www.va.gov/claim-or-appeal-status/>.

Sincerely,

**Case Review and Intake & Mail Management
Branch**

Board of Veterans' Appeals

CC: JONATHAN HOWARD DAVIS, Attorney

Exhibit B

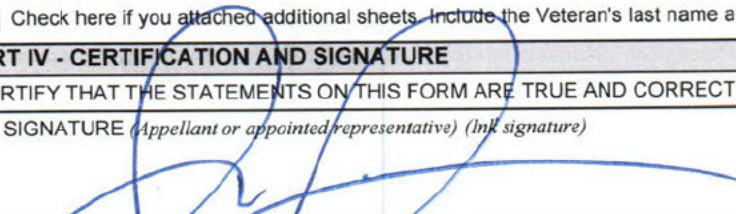
VA U.S. Department of Veterans Affairs		DECISION REVIEW REQUEST: BOARD APPEAL (NOTICE OF DISAGREEMENT)	
PART I - PERSONAL INFORMATION			
1. VETERAN'S NAME (First, middle initial, last) Michele M. Bolds		2. VETERAN'S FILE NUMBER [REDACTED]	3. VETERAN'S DATE OF BIRTH [REDACTED]
4. IF I AM NOT THE VETERAN, MY NAME IS (First, middle initial, last)		5. MY DATE OF BIRTH (If I am not the Veteran)	
6. MY PREFERRED MAILING ADDRESS (Number and street or rural route, P.O. Box, City, State, ZIP Code and Country) P.O. Box 310172 Houston TX US 77231			<input type="checkbox"/> I AM EXPERIENCING HOMELESSNESS
7. MY PREFERRED TELEPHONE NUMBER (Include Area Code) [REDACTED]	8. MY PREFERRED E-MAIL ADDRESS [REDACTED]	9. MY REPRESENTATIVE'S NAME Jonathan H. Davis, Esq.	
PART II - BOARD REVIEW OPTION (Check only one)			
10. A Veterans Law Judge will consider your appeal in the order in which it is received, depending on which of the following review options you select. (For additional explanation of your options, please see the attached information and instructions.)			
<input type="checkbox"/> 10A. Direct Review by a Veterans Law Judge: I do not want a Board hearing, and will not submit any additional evidence in support of my appeal. (Choosing this option often results in the Board issuing its decision most quickly.)			
<input type="checkbox"/> 10B. Evidence Submission Reviewed by a Veterans Law Judge: I have additional evidence in support of my appeal that I will submit to the Board with my VA Form 10182 or within the 90 days of the Board's receipt of my VA Form 10182. (Choosing this option will extend the time it takes for the Board to decide your appeal.)			
<input checked="" type="checkbox"/> 10C. Hearing with a Veterans Law Judge: I want a Board hearing and the opportunity to submit additional evidence in support of my appeal that I will provide within 90 days after my hearing. I want the hearing type below (Choosing this option will extend the time it takes for the Board to decide your appeal.)			
<input type="checkbox"/> Central Office Hearing (I will attend in person in Washington, DC)			
<input type="checkbox"/> Videoconference hearing (I will go to a Regional Office)			
<input checked="" type="checkbox"/> Virtual Telehearing (I will attend using an internet-connected device) (Important: Provide your e-mail address and Representative in Part I)			
PART III - SPECIFIC ISSUE(S) TO BE APPEALED TO A VETERANS LAW JUDGE AT THE BOARD			
11. Please list each issue decided by VA that you would like to appeal. Please refer to your decision notice(s) for a list of adjudicated issues. For each issue, please identify the date of VA's decision and the area of disagreement (e.g., service connection, disability evaluation, or effective date of award).			
<input type="checkbox"/> Check here if you are including a request for an extension of time to file the VA Form 10182 due to good cause and then attach additional sheets explaining why you believe there is good cause for the extension.			
<input type="checkbox"/> Check here if you are appealing a denial of benefits by the Veterans Health Administration (VHA)			
A. Specific Issue(s)		B. Date of Decision	
Entitlement to service connection for mental health condition		23 Jan 2023	
Entitlement to service connection for left shoulder conditions (to include bicep tendinitis and thinned/torn rotator cuff)		16 Nov 2022	
Entitlement to service connection for hammertoes, left foot		16 Nov 2022	
Entitlement to service connection for hammertoes, right foot		16 Nov 2022	
Entitlement to service connection for residuals of surgery on four toes		16 Nov 2022	
C. Additional Issue(s)			
<input type="checkbox"/> Check here if you attached additional sheets. Include the Veteran's last name and the file number.			
PART IV - CERTIFICATION AND SIGNATURE			
I CERTIFY THAT THE STATEMENTS ON THIS FORM ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.			
12. SIGNATURE (Appellant or appointed representative) (Ink signature) 			13. DATE SIGNED 30 JAN 23

Exhibit C

MICHELE MARIA BOLDS
PO BOX 310172
HOUSTON, TX 77231

Jonathan Howard Davis, Attorney
Jonathan H. Davis
Veteran Esquire Legal Sol., PLLC
6303 Blue Lagoon Drive, Suite 400
Miami, FL 33126



DEPARTMENT OF VETERANS AFFAIRS
Board of Veterans' Appeals
Washington, DC

February 3, 2023

MICHELE MARIA BOLDS
PO BOX 310172
HOUSTON, TX 77231

In Reply Refer To: 014CREB646

SS [REDACTED]
Docket No. 230130-319377
BOLDS, Michele M

Dear MICHELE MARIA BOLDS:

The Board of Veterans' Appeals received your Board Appeal request (VA Form 10182) on January 30, 2023. Based on the Board appeal option you selected on the form, your appeal has been placed on the Hearing docket.

What happens next?

You will receive a letter from the Board when your hearing is scheduled. While not required, you have the option to submit new evidence during your hearing or within 90 days after the date of your hearing. Any evidence submitted after the date of the decision you are appealing but prior to the date of your hearing cannot be considered by the Veterans Law Judge. You can start preparing evidence now, but you can only submit it during your hearing or within 90 days after the date of your hearing. If you do not appear for your scheduled hearing, and the hearing is not rescheduled, you may submit evidence within 90 days following the date of the scheduled hearing.

You may also choose to withdraw your hearing request. If you choose to withdraw your hearing request, you can only submit evidence within 90 days following the Board's receipt of your hearing withdrawal.

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Typically, requests to change AMA dockets must be filed at the Board within 60 days of the date the Board received the VA Form 10182 that you have already submitted, or

2.

SS [REDACTED]

Docket No. 230130-319377

BOLDS, Michele M

within one year of the VA decision being appealed, whichever date is later. However, **you may submit a good cause extension request.** To request an extension of time to submit a VA Form 10182 docket switch request, please note the reasons why you believe there is good cause on or with your VA Form 10182 docket switch request.

What if I would like my case advanced on the Board's docket?

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3.
SS [REDACTED]
Docket No. 230130-319377
BOLDS, Michele M

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P.O. Box 27063
Washington, DC 20038
Fax: 1-844-678-8979

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Sincerely,

**Case Review and Intake & Mail Management
Branch**
Board of Veterans' Appeals

cc: Jonathan Howard Davis, Attorney