

§ 19.8

(c) A decision by a panel of Members will be by a majority vote of the panel Members.

[57 FR 4104, Feb. 3, 1992, as amended at 61 FR 20449, May 7, 1996]

§ 19.8 Content of Board decision, remand, or order in simultaneously contested claims.

The content of the Board's decision, remand, or order in appeals involving a simultaneously contested claim will be limited to information that directly affects the issues involved in the contested claim. Appellate issues that do not involve all of the contesting parties will be addressed in one or more separate written decisions, remands, or orders that will be furnished only to the appellants concerned and their representatives, if any.

(Authority: 5 U.S.C. 552a(b), 38 U.S.C. 5701(a))
[61 FR 68666, Dec. 30, 1996]

§ 19.9 Remand or referral for further action.

(a) *Remand.* If further evidence, clarification of the evidence, correction of a procedural defect, or any other action is essential for a proper appellate decision, a Veterans Law Judge or panel of Veterans Law Judges shall remand the case to the agency of original jurisdiction, specifying the action to be undertaken.

(b) *Referral.* The Board shall refer to the agency of original jurisdiction for appropriate consideration and handling in the first instance all claims reasonably raised by the record that have not been initially adjudicated by the agency of original jurisdiction, except for claims over which the Board has original jurisdiction.

(c) *Remand for a Statement of the Case.* In cases before the Board in which a claimant has timely filed a Notice of Disagreement with a determination of the agency of original jurisdiction on a claim, but the record reflects that the agency of original jurisdiction has not subsequently granted the claim in full and has not furnished the claimant with a Statement of the Case, the Board shall remand the claim to the agency of original jurisdiction with instructions to prepare and issue a Statement of the Case in accordance with

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the provisions of subpart B of this part. A remand for a Statement of the Case is not required if the claimant, consistent with the withdrawal requirements of § 20.204 of this chapter, withdraws the Notice of Disagreement.

(d) *Exceptions.* A remand or referral to the agency of original jurisdiction is not necessary for any of the following purposes:

(1) Clarifying a procedural matter before the Board, including the appellant's choice of representative before the Board, the issues on appeal, or requests for a hearing before the Board;

(2) Considering law not already considered by the agency of original jurisdiction, including, but not limited to, statutes, regulations, and court decisions;

(3) Reviewing additional evidence received by the Board, if, pursuant to § 20.1304(c) of this chapter, the appellant or the appellant's representative waives the right to initial consideration by the agency of original jurisdiction, or if the Board determines that the benefit or benefits to which the evidence relates may be fully allowed on appeal;

(4) Requesting an opinion under § 20.901 of this chapter;

(5) Supplementing the record with a recognized medical treatise; or

(6) Considering a matter over which the Board has original jurisdiction.

(Authority: 38 U.S.C. 7102, 7103(c), 7104(a), 7105.)

[67 FR 3104, Jan. 23, 2002, as amended at 69 FR 53808, Sept. 3, 2004; 76 FR 17547, Mar. 30, 2011]

§ 19.10 [Reserved]

§ 19.11 Reconsideration panel.

(a) *Assignment of Members.* When a motion for reconsideration is allowed, the Chairman will assign a panel of three or more Members of the Board, which may include the Chairman, to conduct the reconsideration.

(b) *Number of Members constituting a reconsideration panel.* In the case of a matter originally heard by a single Member of the Board, the case shall be referred to a panel of three Members of the Board. In the case of a matter originally heard by a panel of Members of the Board, the case shall be referred