Date: July 14, 1995 VAOPGCPREC 20-95

From: General Counsel (022)

Subj: Medical Records Review Prior to Rating Examinations

To: Under Secretary for Benefits (20)

QUESTION PRESENTED:

Under what circumstances must an examiner review a veteran's medical records prior to conducting a rating examination for compensation and pension purposes?

COMMENTS:

1. The statutory duty to assist in 38 U.S.C. § 5107(a) requires that the Secretary of Veterans Affairs assist a claimant in "developing the facts pertinent to the claim," provided that the claim is well grounded. The statute does not specify the types of assistance required. The United States Court of Veterans Appeals (CVA) has held in numerous cases that the Department of Veterans Affairs' (VA) statutory duty to assist a claimant may, under appropriate circumstances, include a duty to conduct a thorough and contemporaneous medical examination. See Green v. Derwinski, 1 Vet. App. 121, 124 (1991); Caffrey v. Brown, 6 Vet. App. 377, 381 (1994). Further, the CVA has in many such cases remanded claims with instructions to provide, pursuant to the duty to assist, an examination which "takes into account the records of [the claimant's] prior medical treatment, so that the evaluation of the claimed disability will be a fully informed one." E.g., Green, 1 Vet. App. at 124. The CVA's precedents do not, however, clearly indicate whether VA examiners must review claimants' prior medical records in all cases in which VA conducts an examination for compensation and pension purposes.

2. Section 501(a)(3) of title 38, United States Code, authorizes the Secretary to prescribe all rules and regulations necessary or appropriate to conducting medical examinations. Although the Secretary has issued regulations governing the provision of medical examinations (see 38 C.F.R. §§ 3.326 and 3.327), those regulations do not address whether, and under

what circumstances, a VA examiner must review a claimant's prior medical records before examining the claimant. VA regulations at 38 C.F.R. § 4.1, issued as part of VA's schedule for rating disabilities, state that "[i]t is . . . essential, both in the examination and in the evaluation of disability, that each disability be viewed in relation to its history." Although each disability examined must be viewed in relation to its history, section 4.1 does not mandate any particular source for that history. For example, section 4.1 does not require that the history be obtained from the examiner's review of prior medical records as opposed to the oral report of the person examined or summaries provided by the rating board requesting the examination.

3. VA regulations at 38 C.F.R. § 4.2 provide, with respect to review of examination reports by rating boards, that "if the report does not contain sufficient detail, it is incumbent upon the rating board to return the report as inadequate for evaluation purposes." The regulations do not, however, provide specific criteria for determining whether an examination report is adequate for rating purposes. A provision in the Veterans Benefits Administration's (VBA) Adjudication Procedure Manual discusses some considerations in determining whether a report is adequate. The manual requires that a report "include a brief medical and industrial history from the date of discharge, or last examination," but does not expressly require that the report be based upon review of a claimant's prior medical records. VBA Adjudication Procedure Manual M21-1, part VI, para. 1.09a., change 30 (8-19-94). That manual further provides that "[c]laims folders will not routinely accompany requests for examination to the examining facility," but that "[e]xceptional circumstances may warrant claims folder review by the examiner, e.g., POW exams, BVA remands, etc." Id. at para. 1.01g. A Veterans Health Administration (VHA) manual similarly provides that:

> Claims folders will not be forwarded to the VA health care facility or clinic with requests for examination except when the claim is for service connection for post-traumatic stress disorder or when the Board of Veterans Appeals

> or the Rating Board request the claim folder be made available to the examining physician. . . . Claims folders will not routinely be requested for review prior to or during examination.

VHA Operations Manual M-1, part I, para. 20.05a. and b. (7-6-93).

4. The CVA decisions directing that VA examiners review a claimant's prior medical records before conducting an examination have generally relied upon language in Green v. Derwinski, 1 Vet. App. 121 (1991). In Green, the Board of Veterans' Appeals (Board) had denied a claim for service connection for residuals of poliomyelitis, based in part on the fact that a VA neurological examination had not revealed any chronic residuals of the poliomyelitis which was diagnosed during the claimant's military service. Id. at 122-23. On review of that decision, the CVA found that the Board had erred in relying upon the VA neurological examination as evidence against the claim. The CVA noted that the VA examination report was equivocal as to whether certain neurological findings could be attributable to residuals of poliomyelitis. Id. at 123. Further, the CVA noted that the VA examiner had stated that review of the claimant's prior medical records might "'clarify the diagnostic doubt'." Id. at 123. In view of the inconclusive nature of the examination report relied on by the Board and the examiner's suggestion for review of the claimant's prior medical records, the CVA stated that "fulfillment of the statutory duty to assist here includes the conduct of a thorough and contemporaneous medical examination, one which takes into account the records of prior medical treatment, so that the evaluation of the claimed disability will be a fully informed one." Id. at 124 (emphasis added). The CVA further quoted the requirement of 38 C.F.R. § 4.2 that VA rating boards return examination reports which are "inadequate" for evaluation purposes. Id. at 124.

5. The CVA's conclusion in Green with respect to the requirements of the duty to assist was expressly limited to the par-

ticular circumstances of that case and was apparently based in part on the fact that the VA examiner had expressly suggested

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that review of prior medical records would be helpful. See also Abernathy v. Principi, 3 Vet. App. 461, 463-65 (1992) (where VA examiner deferred diagnosis because claims folder was unavailable and stated that it "seems prudent" to review folder prior to reaching diagnosis, CVA remanded for completion of examination report). Green cannot reasonably be read as holding that VA examiners must review a veteran's prior medical records in all cases where a VA examination is conducted. In several subsequent cases, the CVA has, in a variety of circumstances, relied upon Green in requiring new VA examinations involving review of prior medical records. Although those cases indicate that the requirement for records review by VA medical examiners is not limited to situations where an examiner recommends such review, they do not, in our view, establish that such records review is required in all circumstances, nor do they suggest a legal basis for such a broad and absolute requirement. Rather, review of those cases, in the context of applicable law and precedent, suggests that the necessity for pre-examination records review must be determined according to the facts of each individual case. The cases suggest certain circumstances, in addition to those identified in Green, under which the duty to assist will require pre-examination review of prior medical records.

6. In Wilson v. Derwinski, 2 Vet. App. 16 (1991), the veteran asserted that his then-current back disability was related to a back injury in service several years earlier. After his initial VA examination, the veteran submitted private medical records reflecting treatment for back pain over a number of years after service. The CVA held that the VA examination was deficient in failing to address whether the current back disability was related to the in-service injury and stated that "[i]n this case, the 'fulfillment of the statutory duty to assist . . . includes the conduct of a thorough and contemporaneous medical examination, one which takes into account the records of prior medical treatment'." Id. at 21 (emphasis added) (quoting Green, 1 Vet. App. at 124). Although the CVA's holding was expressly limited to the facts of that case, Wilson might be viewed as indicating that when an examiner is

required to assess whether a current disability is related to a previously-noted disability, the examiner must review the
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records of prior medical treatment in order to have an informed basis for that determination. See generally Stanton v. Brown, 5 Vet. App. 563, 569 (1993) (remand for VA examination to determine whether veteran had current back disability and, if so, whether it resulted from back injury noted in service; Green quoted); Moore v. Derwinski, 1 Vet. App. 401, 405 (1991) (VA examination report failed to address possible relationship between service-connected trench feet and subsequent development of degenerative arthritis of heels); Green, 1 Vet. App. at 124.

7. In Fanning v. Brown, 4 Vet. App. 225, 230 (1993), the claimant had raised a claim for secondary service-connection for a psychiatric disability claimed to have resulted from his service-connected physical disabilities, and VA failed to develop and adjudicate that claim. The CVA, citing Green, held that, "[i]n this instance," VA was required to provide a psychiatric examination taking into account prior medical records to determine whether the claimant had a psychiatric disability and whether any such disability was related to his service-connected disabilities. Id. at 230. This case appears to suggest that review of prior medical records may be necessary when an examiner is required to assess whether a claimed current disability was proximately caused by a previously-diagnosed service-connected disability. See generally EF v. Derwinski, 1 Vet. App. 324, 326 (1991) (remand for examination to determine whether psychiatric condition was secondary to service-connected physical disability; Green quoted).

8. In Shoemaker v. Derwinski, 3 Vet. App. 248 (1992), which involved a claim for an increased rating for a service-connected psychiatric disability, the veteran had been diagnosed with numerous different psychiatric disorders at various times. The CVA remanded the case and instructed VA to conduct an examination for purposes of reconciling the numerous diagnoses. Id. at 254-55. The court stated that the examiner must have the veteran's "full medical record" prior to making an evaluation. Id. at 255. Although the CVA again did not purport to establish any rule of general applicability, this case appears to suggest that when an examiner is required to

assess and reconcile conflicting prior diagnoses, review of the pertinent prior medical records may be necessary. See <Page 6>
generally Waddell v. Brown, 5 Vet. App. 454, 456-57 (1993) (remand to determine degree of impairment attributable to various disorders; Green quoted); EF, 1 Vet. App. at 326 (examination required to determine what mental disorder was in issue; Green quoted).

9. In Tucker v. Derwinski, 2 Vet. App. 201 (1992), a VA regional office had reduced the veteran's disability rating based on the findings on a VA examination. The regional office had observed that "'the claims folder was not reviewed by the examiner and the history reported by the veteran is [not] reliable.'" Id. at 202. Noting that the claims folder had not been reviewed by the examiner, the CVA concluded that the VA examination did not provide an adequate basis for reducing the veteran's disability rating. Id. at 203. This case appears to suggest that when an examiner is required to evaluate whether a disability has improved since a prior date, the examiner must review the claimant's prior medical records. But compare Schafrath v. Derwinski, 1 Vet. App. 589, 594-96 (1991) (Although the CVA stated that "[w]hether or not a disability has improved cannot be determined without reference to prior records detailing the history of the condition," it held that the Board had erred in not considering such history, not that the VA examination report was inadequate for failing to consider it.). However, we note that, under the facts presented in Tucker, the claims folder apparently was the only reliable source of medical history.

10. In Ardison v. Brown, 6 Vet. App. 405 (1994), the claimant sought an increased rating for his service-connected foot disability (tinea pedis), which was subject to alternating periods of recurrence and remission. The CVA noted that the VA examination in that case had been performed during an inactive stage of the disability, id. at 408, and, after quoting Green, the court held that the VA examination "was not adequate, given appellant's prior history of remission and recurrence of tinea pedis." Id. at 407. The CVA ordered a new VA examination during the active stage of the claimant's disease. Id. at 408. Although the CVA did not specifically state that the VA examiner would be required to review the claimant's prior medical records in conducting the examination on remand,

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Ardison may be construed as suggesting that, when the disability at issue is one which is subject to periods of remission or inactivity, the examiner should review the pertinent prior medical records to determine whether the current examination accurately reflects the severity of the disability during the active stages of the disability.

11. In Proscelle v. Derwinski, 2 Vet. App. 629, 632 (1992), the CVA held that the claimant had submitted a well-grounded claim for an increased rating for residuals of his service-connected maxillary fracture, but noted that the record before VA contained no evidence of the then-current severity of that condition. The CVA held that VA was required to provide an examination to determine the current level of the veteran's disability and stated that the "examiner should have the veteran's full claims file available for review." Id. at 632. The rationale for requiring the veteran's full claims file to be forwarded to the examiner for purposes of evaluating the veteran's current level of disability was apparently to assist in evaluating the extent to which the veteran's nonservice-connected conditions may have caused or contributed to the current service-connected maxillary disability. Id. at 632. The CVA did not purport to establish a generally-applicable rule requiring review of claims folders in connection with VA examinations in claims for increased ratings. Rather, the holding was expressly limited to the requirements of the duty to assist "in this case." Id. at 632.

12. In Crawford v. Brown, 5 Vet. App. 33 (1993), the claimant sought an increased rating for a service-connected psychiatric disability and was examined by a VA physician who did not review the claimant's prior medical records. The CVA concluded, without explanation, that the evidence before the Board was "inadequate" and remanded the case with instruction to conduct a new examination "*which takes into account the records of prior medical treatment*, so that the evaluation of the veteran's disability will be a fully informed one." Id. at 36 (emphasis in original); see also Del Rosario v. Principi, 3 Vet. App. 555, 557 (1992) (claim for increased rating for coronary artery disease remanded for a "thorough medical examination which takes into account the records of prior medical treatment"). In neither Crawford nor Del Rosario did the
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CVA explain the necessity of review of prior medical records, other than by the passing reference in Crawford to making a fully informed decision. However, we may surmise that the court believed that review of medical history was significant in these increased rating cases so that the current state of the conditions could be viewed in the context of the progression of the disabilities at earlier stages.

13. In Roberts v. Derwinski, 2 Vet. App. 387 (1992), VA had denied the veteran's claim for nonservice-connected pension based on a VA examination conducted without review of any of the veteran's private medical records. The CVA indicated that the Board erred in denying the claim "without stating a legal basis for its denial in view of the veteran's entire medical history" and, citing Green, remanded the claim with instructions to provide a medical examination "which takes into account prior medical records." 2 Vet. App. at 390. In Martin v. Brown, 4 Vet. App. 136, 139 (1993), which involved a claim for an increased disability rating based on individual unemployability, the VA medical examiner "did not have the benefit of the veteran's past medical records." The CVA held that the record before the Board was "inadequate" and, citing Green, remanded the case with instructions to provide a new VA examination, "including a review of all past medical records." 4 Vet. App. at 140. The rationale for requiring review of prior medical records in order to determine whether a claimant is currently permanently and totally disabled or totally disabled based on individual unemployability is not clear from the CVA's opinions. In Martin, however, it appears that the "past medical records" referred to by the CVA included then-current reports of private medical treatment which the claimant was receiving on a monthly basis. 4 Vet. App. at 139. Those records presumably could be pertinent to the examiner's assessment of the claimant's then-current disability levels.

14. In Culver v. Derwinski, 3 Vet. App. 292 (1992), the claimant sought service connection for post-traumatic stress disorder, gastric ulcer disease, and a right-shoulder disorder, and an increased rating for otitis externa. The CVA, citing Green, remanded the first three claims with instructions to conduct a new medical examination which takes into account the claimant's prior medical records. Culver,

3 Vet. App. at 299-300. The court did not explain why review of prior medical records was necessary. With respect to the otitis externa claim, the CVA stated that the VA examination failed to include a review of all the veteran's medical records, in violation of the duty to assist, but that the error was harmless because the examination had found no current manifestations of the claimed disability. Id. at 299; see also Irby v. Brown, 6 Vet. App. 132, 135-36 (1994) (failure to obtain medical examination which took into account records of prior evaluation and treatment was harmless where there was a plausible basis for the Board's conclusion that the criteria for diagnosis of the claimed condition were not met). The fact that a failure to conduct an adequate medical examination may constitute harmless error is not helpful for purposes of guiding VBA's actions with respect to furnishing records to examiners, since the harmlessness of the failure would not be apparent until after adjudication of the claim is completed.

15. The holdings in most of the above-referenced CVA opinions, including Green and Wilson, the cases most often cited by the CVA on this issue, are expressly limited to the facts of those particular cases and do not purport to establish a generally applicable rule requiring review of prior medical records in connection with all VA compensation and pension examinations. See, e.g., Green, 1 Vet. App. at 124 ("here"); Wilson, 2 Vet. App. at 21 ("[i]n this case"); Fanning, 4 Vet. App. at 230 ("[i]n this instance"). Certain decisions of the CVA citing Green and Wilson appear to assume that those cases established a generally applicable rule to be applied without regard to the circumstances of the particular case. See Culver, 3 Vet. App. at 299-300. In this regard, the CVA has on occasion employed broad language suggestive of a rule that examinations pursuant to the duty to assist must include review of prior medical records. See, e.g., Caffrey, 6 Vet. App. at 381 ("The medical examination must consider the records of prior medical examinations and treatment in order to assure a fully informed examination."); Waddell, 5 Vet. App. at 456 ("The duty to assist 'includes the conduct of a thorough and contemporaneous medical examination, one which takes into account the records of prior medical treatment . . . .'" (quoting Green)); Martin, 4 Vet. App. at 139-40 (similar to Waddell). Those statements, however, were made

in the context of summarizing the holdings in Green and similar cases. The CVA merely restated or quoted the pertinent language from Green and did not purport to consider or decide independently the question of whether a VA examiner must review a veteran's prior medical records in all cases in which a VA examination is conducted. In none of the referenced decisions did the CVA provide any discussion or legal analysis to support such a broad rule, and nothing in the opinions indicates that that particular question was actually presented to or decided by the CVA. Accordingly, we do not believe that the CVA's seemingly broad characterization of Green and similar cases can reasonably be construed to establish a requirement for review of prior medical records in all cases in which a VA examination is conducted. Further, even if the referenced decisions reflected a belief that prior CVA precedents established a broad rule requiring pre-examination records review in connection with all compensation and pension examinations, we do not believe that those opinions would themselves constitute precedential authority establishing such a rule. See, e.g., United States v. Daniels, 902 F.2d 1238, 1241 (7th Cir.), cert. denied, 498 U.S. 981 (1990) ("Judicial assumptions concerning, judicial allusions to, and judicial discussions of issues that are not contested are not holdings." (citations omitted)); In re Stegall, 865 F.2d 140, 142 (7th Cir. 1989) ("A point of law merely assumed in an opinion, not discussed, is not authoritative." (citations omitted)).

16. The CVA decisions discussed above indicate that review of a claimant's prior medical records will often be necessary in order to provide an adequate basis for an examiner's opinions and conclusions. The types of claims in which such review may be necessary include those raising issues concerning: the possible relationship between current disability and previously noted disability, see Wilson, 2 Vet. App. at 21; Green, 1 Vet. App. at 123-24; secondary service connection, see Fanning, 4 Vet. App. at 230; the possible effect of nonservice-connected conditions on a service-connected condition, see Proscelle, 2 Vet. App. at 632; the progression or improvement of a condition since a prior rating, see Crawford, 5 Vet. App. at 36; Del Rosario, 3 Vet. App. at 557; Tucker, 2 Vet. App. at 202-03; but see Schafrath, 1 Vet. App. at 594-96; conditions of fluctuating severity, see Ardison, 6 Vet.

App. at 407-08; reconciliation of differing diagnoses, see Shoemaker, 3 Vet. App. at 254-55; and, private medical records which may be pertinent to assessment of the current level of disability, see Martin, 4 Vet. App. at 139-40. Further, in most instances, the language used by the CVA indicates the court's understanding that records would actually be reviewed by, rather than merely made available to, the examiner. Compare, e.g., Wilson, 2 Vet. App. at 21 (records of prior medical treatment to be "take[n] into account"); Green, 1 Vet. App. at 124 (same); and Martin, 4 Vet. App. at 140 (examination to "includ[e] a review of all past medical records") with Shoemaker, 3 Vet. App. at 255 ("examiner must have the full medical record"); and Proscelle, 2 Vet. App. at 632 (claims folder to be "available for review" by examiner). These decisions do not, however, establish that review of medical records will be required in all circumstances where a rating examination is conducted pursuant to the duty to assist. In view of the nature of the statutory duty to assist and the role of examinations in the VA claims-adjudication process, we believe that the necessity for review of prior medical records as part of a VA examination will depend upon the facts of the particular case and, specifically, upon the nature of the issues the examination is required to address.

17. In requiring VA examiners to review a claimant's prior medical records, the CVA has relied primarily upon the duty to assist stated in 38 U.S.C. § 5107(a). Section 5107(a) provides that, once a claimant has submitted a well-grounded claim, VA is required to assist the claimant "in developing the facts pertinent to the claim." (Emphasis added.) The CVA has indicated that the duty to assist under section 5107(a) is not unlimited, nor is it a license for a "fishing expedition," but that it requires only development of evidence which is relevant to the claim. Counts v. Brown, 6 Vet. App. 473, 476 (1994); Gobber v. Derwinski, 2 Vet. App. 470, 472 (1992); Godwin v. Derwinski, 1 Vet. App. 419, 425 (1991). In Counts, 6 Vet. App. at 476, the CVA stated that section 5107(a) does not require VA to seek to obtain documents which are not demonstrably relevant to the claim. These precedents suggest that 38 U.S.C. § 5107(a) requires only such actions as would assist in obtaining or developing evidence relevant to a claim.

18. In ordering examinations pursuant to the duty to assist in Green and other cases, the CVA stated that pre-examination review of the claimant's prior medical records was necessary in order to ensure that the examinations were "fully informed" examinations. E.g., Green, 1 Vet. App. at 124. As is apparent from the above discussion, it appears that review of the prior medical records was necessary in most of those cases to enable the examiner to address fully and fairly the particular issue which the examiner was required to consider. In Green, for example, where a VA examination was conducted for purposes of determining whether the claimant had chronic residuals of a previously diagnosed disease, review of the prior medical records identifying the disease and its effects was considered necessary to provide a factual basis for that determination. Id. at 123-24. In this context, the requirement for pre-examination records review might be appropriate under the theory that an examination carried out pursuant to the duty to assist must be conducted in a manner designed to facilitate, to the extent feasible, the development of the evidence necessary to adjudicate the claim fully and fairly. This theory, which might be viewed as implicit in the statutory duty to assist, is reflected in the requirement at 38 C.F.R. § 4.2 that examination reports contain sufficient findings and detail to support the examiner's conclusions and to provide an adequate basis for evaluation of the claim.

19. It does not necessarily follow, however, that review of a veteran's prior medical records will be required in all cases in order to provide the necessary basis for an examiner's evaluation of the claimant's disabilities. Rather, there may be circumstances where the scope of the examination required by the duty to assist will be limited in such a way that review of a claimant's prior medical records would not materially assist the examiner in making the necessary determinations. Your opinion request suggests, as an example, that review of prior medical records may be of no assistance when the examiner is asked only to determine whether the veteran has lost the use of a hand, inasmuch as that determination is based solely on actual remaining function and not on a comparison of present functioning to past functioning. We do not believe that the duty to assist would require review of prior

medical records when such review would not assist the examiner in making the necessary determinations.

20. In addition, if review of a veteran's prior medical records would not materially assist the examiner in evaluating the veteran's condition or responding to the examination request, then the examination report presumably would not be "inadequate" for rating purposes under 38 C.F.R. § 4.2 simply because it was not based upon review of the prior medical records. Whether an examination report is adequate for rating purposes will generally depend upon the facts of the particular case and, specifically, upon the nature of the information needed to adjudicate the claim.

21. When an examination is required under the duty to assist, the function of the examination is to develop "pertinent" evidence which will provide the necessary basis for evaluation of the claim. This purpose is reflected in the legislative history of the Veterans' Judicial Review Act, Pub. L. No. 100-687, Div. A, § 103(a)(1), 102 Stat. 4105, 4106 (1988), which created the statutory duty to assist. In discussing the types of assistance VA traditionally provided under its pre-existing regulatory policy of assisting claimants, see 38 C.F.R. § 3.103(a), the House Committee on Veterans' Affairs stated:

> When necessary, a medical examination is scheduled with a VA or consulting physician at Government expense. The physician records the claimant's medical and social/industrial history, as well as all clinical findings, which provide an objective base for later evaluation by a rating board or Board of Veterans' Appeals. The physician does not provide conclusions as to the merits of the claim.

H.R. Rep. No. 963, 100th Cong., 2d Sess. 13-14, reprinted in 1988 U.S.C.C.A.N. 5782, 5795. Because compensation and pension examinations are provided for the purpose of developing the evidence necessary for adjudicators to evaluate the claim, the scope of the examination will generally depend upon the facts of the particular case and upon what sort of evidence is needed in order to facilitate a full and fair evaluation of

the claim. When, for example, the evidence needed to adjudicate a claim includes a physician's evaluation of the possible relationship between a prior disability and a current disability, the physician will need to review pertinent prior medical

records in order to provide a fully informed evaluation. On the other hand, where the necessary evidence to be developed through examination is limited to matters which do not implicate the claimant's prior medical history, then the examiner will not need to review the prior medical records in order to provide the required evaluation.

22. Finally, we note that the opinion request refers to the need for review of a veteran's claims folder prior to examination. The pertinent CVA precedents generally do not require that a claimant's entire claims folder be transmitted to or reviewed by an examiner prior to an examination. Rather, Green, 1 Vet. App. at 124, and similar cases stated that the examiner was required to review the claimant's "records of prior medical treatment." In only two cases, Proscelle, 2 Vet. App. at 632, and Tucker, 2 Vet App. at 202, was the claims folder referenced. We believe that, where review of record by an examiner is required, the requirement may generally be met by transmitting to the examiner copies of all pertinent medical records. Transmittal of the entire claims folder or of medical records pertaining entirely to unrelated conditions would not generally be required.

23. In light of the foregoing discussion, revisions to VBA Manual M21-1 and VHA Manual M-1 appear to be necessary.

HELD:

Pursuant to the statutory duty under 38 U.S.C. § 5107(a) to assist a claimant in the development of facts pertinent to a claim, and the decisions of the Court of Veterans Appeals interpreting that duty, a Department of Veterans Affairs examiner must review a claimant's prior medical records when such review is necessary to ensure a fully informed examination or to provide an adequate basis for the examiner's findings and conclusions. However, such review may not be necessary in all cases. The determination as to whether review of prior medical records is necessary in a particular case depends largely

upon the scope of the examination and the nature of the findings and conclusions the examiner is requested to provide.

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