Clarification on when to order an exam for a S/C claim for hearing loss/tinnitus.

Scenario: Veteran is claiming  hearing loss and tinnitus. His MOS is high probability. The Veteran did not provide evidence of a current audiological disability (including lay evidence).

Findings: The Veteran did not provide a lay statement or current audiology.  Claiming a condition is not a lay statement/evidence.   The MOS is the event only, under element B.  An exam is not warranted.

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| **I.1.C.3.b****.  Determining When an Examination or Medical Opinion Is Necessary** |  | The test for when an examination is necessary under the duty to assist is in [38 CFR 3.159(c)(4)](http://www.ecfr.gov/cgi-bin/text-idx?SID=f22875bb0218c30077b243a4e74103e5&mc=true&node=se38.1.3_1159&rgn=div8), and each element for this determination is described in more detail separately in [M21-1, Part I, 1.C.3.c](https://vaww.compensation.pension.km.va.gov/system/templates/selfservice/va_ka/#3c)-[f](https://vaww.compensation.pension.km.va.gov/system/templates/selfservice/va_ka/#3f).    A medical opinion or examination is necessary when there is not sufficient medical evidence of record to make a decision on the claim, and   * there is competent lay or medical evidence of a current diagnosed disability or persistent or recurrent symptoms of disability * the evidence establishes that the Veteran   + suffered an event, injury, or disease in service, *or*   + has a disease or symptoms of a disease listed in [38 CFR 3.309](http://www.ecfr.gov/cgi-bin/text-idx?SID=53b288bd747a68e67e0892d80f38746c&mc=true&node=se38.1.3_1309&rgn=div8), [38 CFR 3.313](http://www.ecfr.gov/cgi-bin/text-idx?SID=53b288bd747a68e67e0892d80f38746c&mc=true&node=se38.1.3_1313&rgn=div8), [38 CFR 3.316](http://www.ecfr.gov/cgi-bin/text-idx?SID=53b288bd747a68e67e0892d80f38746c&mc=true&node=se38.1.3_1316&rgn=div8), or [38 CFR 3.317](http://www.ecfr.gov/cgi-bin/text-idx?SID=53b288bd747a68e67e0892d80f38746c&mc=true&node=se38.1.3_1317&rgn=div8) manifesting during an applicable presumptive period, and * the evidence indicates that the claimed disability or symptoms may be associated with the established event, injury, or disease in service or with another service-connected (SC) disability.   ***Important***:  An examination and/or opinion is ***not*** warranted until ***all three*** elements described above are present in the evidence. |

**In accordance with 38 CFR 3.159 (c)(4); M21-1 I.1.C.3.b** we must have competent lay or medical evidence of a current diagnosed disability (Element A). The MOS is not considered competent lay or medical evidence. The MOS is the event (Element B).

**In accordance with 38 CFR 3.159 (a) (2) :**

*Competent lay evidence* means any evidence not requiring that the proponent have specialized education, training, or experience. Lay evidence is competent if it is provided by a person who has knowledge of facts or circumstances and conveys matters that can be observed and described by a lay person.

**M21-1 III.iv.4.B.3.b - Sympathetic Reading and Claims for Hearing Loss and/or Tinnitus**

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|  | Review each claim for hearing loss and/or tinnitus for   * sufficient evidence of a current audiological disability (including lay evidence), and * evidence documenting   + hearing loss and/or tinnitus in service, or   + an in-service event, injury, disease, or symptoms of a disease potentially related to an audiological disability. |

M21-1 III.iv.4.B.3.d. - Considering the Duty MOS Noise Exposure Listing and Combat Duties

Based on the Veteran’s records, review each duty MOS, Air Force Specialty Code, rating, or duty assignment documented on the Duty MOS Noise Exposure Listing to determine the probability of exposure to hazardous noise. If the duty position is shown to have a “Highly Probable” or “Moderate” probability of hazardous noise exposure, concede exposure to hazardous noise for the purposes of establishing an event in service.

In addition, also review the Veteran’s records for evidence that the Veteran engaged in combat with the enemy in active service during a period of war, campaign, or expedition.

If the evidence establishes that the Veteran was engaged in combat, concede exposure to hazardous noise for the purposes of establishing an event in service.

**M21-1 III.iv.4.B.3.d. - Considering the Duty MOS Noise Exposure Listing and Combat Duties**

Based on the Veteran’s records, review each duty MOS, Air Force Specialty Code, rating, or duty assignment documented on the *Duty MOS Noise Exposure Listing* to determine the probability of exposure to hazardous noise. If the duty position is shown to have a “Highly Probable” or “Moderate” probability of hazardous noise exposure, concede exposure to hazardous noise for the purposes of establishing an event in service.

In addition, also review the Veteran’s records for evidence that the Veteran engaged in combat with the enemy in active service during a period of war, campaign, or expedition.

If the evidence establishes that the Veteran was engaged in combat, concede exposure to hazardous noise for the purposes of establishing an event in service.