RECORD OF PROCEEDINGS

PHYSICAL DISABILITY BOARD OF REVIEW

NAME: BRANCH OF SERVICE: ARMY

CASE NUMBER: PD0900056 BOARD DATE: 20090910

SEPARATION DATE: 20080926

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SUMMARY OF CASE: This covered individual (CI) was an NCO medically separated from the Army in 2008 after 5 years of service. The medical basis for the separation was a back condition. He injured his lower back in Basic Training doing push-ups. His back pain was aggravated by the extra gear requirements of OIF deployments in 2004 and 2006. An MRI demonstrated an L5/S1 disc bulge abutting the left L-5 nerve root. Surgery was not recommended; epidural injections and conservative management were employed. He did not improve adequately for MOS performance and underwent a MEB, which deemed the back condition to be medically unacceptable. The CI also had a history of migraine headaches without indication of active treatment at the time of the MEB. He had a history of indigestion, diagnosed as reflux disease per gastroenterology consultation. Both of these conditions were deemed to be medically acceptable by the MEB. The CI was diagnosed with PTSD by the VA shortly after separation. This was not noted as an active condition while on active duty. He was referred to the PEB, found unfit for the back condition only and separated at 10% disability.

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CI CONTENTION: The CI contends that his back rating is unfair, citing the current negative impact of the condition on his life and employment. There are no other specified contentions.

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RATING COMPARISON:

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **Service PEB** | | | | **VA (Pre-Separation)** | | | | |
| **Condition** | **Code** | **Rating** | **Date** | **Condition** | **Code** | **Rating** | **Exam** | **Effective** |
| CHRONIC LOW BACK PAIN DUE TO INTERVERTEBRAL DISC DISEASE | 5243 | 10% | 20080609 | CHRONIC LOW BACK PAIN DUE TO INTERVERTEBRAL DISC DISEASE | 5243 | 10% | 20080913  20090622**\***  **\*** For rating. | 20080927 |
| LEFT SCIATIC NERVE IMPINGEMENT | 8520 | 0% | 20090622**\*** | 20080927 |
| CHRONIC MIGRAINE HEADACHES | FIT | | 20080609 | MIGRAINE HEADACHE | 8100 | 0% | 20080913 | 20080927 |
| CHRONIC INDIGESTION | FIT | | 20080609 | IRRITABLE BOWEL SYNDROME | 7319 | 0% | 20080913 | 20080927 |
| NO DA 3947 ENTRY. | | | | PTSD | 9411 | 50% | 20081010 | 20080927 |
|  | | | | NON-PEB X 3 | | | 20080913 | 20080927 |
| **TOTAL Combined: 10%** | | | | **TOTAL Combined (*Includes Non-PEB Conditions*): 60%** | | | | |

ANALYSIS SUMMARY:

Back Condition. There was a single goniometric range-of-motion (ROM) exam for the back in the service treatment record (STR), which was the basis for the PEB rating. The exam noted flexion of 90⁰ and total ROM of 240⁰. Pain end-points were not specified, although ‘without decrement on repetition’ was documented. Spasm, tenderness and antalgic gait were documented. Many non-goniometric back exams are in evidence in the STR. Two noted ‘decreased’ flexion; most stated normal ROM. Antalgic gait was not specifically documented in other MEB entries, although the CI’s contention states that he was walking with the use of a cane at the time of separation (no physician order in evidence). A formal goniometric exam was not performed by the initial VA examiner, and the ROM for rating purposes was not obtained until 9 months after separation. These results were flexion 75⁰ and total ROM 175⁰. Tenderness, but not antalgic gait, was noted. PEB coding was accurate. The MEB exam, had the USAPDA pain policy been applied, would have supported a 0% rating. The PEB specifically cited §4.59 (painful motion) as the basis for a 10% rating. An issue remains, however, that the MEB examiner specifically documented antalgic gait. This is a criterion for 20% rating IAW VASRD §4.71. The finding may have been dismissed by the PEB because it was atypical relative to other exams. This notwithstanding, it was present on the exam underpinning the PEB rating. IAW VASRD §4.3 (reasonable doubt), a 20% rating under 5243 is a fair Board recommendation for the back condition.

Sciatic Neuropathy. As might be expected from the MRI, a radiculopathy was manifest by pain and intermittent paresthesias. Although rated 0% by the VA, consideration was given to recommending the peripheral nerve condition as additionally unfitting. The neurosurgical consultant stated ‘motor 5/5 except some give away weakness’. Otherwise, normal motor and reflex exams are documented throughout the STR and VA exams. Electromyography was normal. There is no support for invoking motor weakness as a component of the CI’s unfitness. Likewise, the mild sensory component had no fitness implications. The pain component is subsumed under the spine rating. There is, therefore, no firm foundation for Board recommendation of an additionally unfitting peripheral neuropathy.

Other Conditions. There is no STR evidence of active treatment of migraine headache or of any episodes which could be characterized as prostrating at the time of separation. The stomach condition was managed with antacids as needed. Both of these conditions were rated 0% by the VA. PTSD did not surface as an issue on active duty. There is only one entry in the STR regarding any psychiatric symptoms. This was a discussion with a MEB provider regarding disabilities and VA claims, covering several complaints. He noted ‘occasional’ nightmares regarding Iraq. He denied depression or any other psychiatric symptoms. Both post-deployment health assessments were negative for PTSD symptoms or significant traumatic exposures. The CI denied any psychiatric symptoms on his MEB physical, and his pre-separation VA exam was negative for psychiatric symptoms. A second VA rating exam (2 wks. after separation) noted classic PTSD symptoms, including prior suicidal ideation. This was the basis for the VA decision and rating. The Commander’s statement and profiles do not indicate any correlation of headaches, abdominal pain or psychiatric issues with fitness. A recommendation as additionally unfitting cannot be supported for any of the CI’s other medical conditions.

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BOARD FINDINGS: IAW DoDI 6040.44, provisions of DoD or Military Department regulations or guidelines relied upon by the PEB will not be considered by the PDBR to the extent they were inconsistent with the VASRD in effect at the time of the adjudication. The Board did not surmise from the record or PEB ruling in this case that any prerogatives outside the VASRD were exercised. In the matter of the back condition, the Board unanimously recommends a rating of 20% under 5243 IAW VASRD §4.71. In the matter of the sciatic neuropathy, the Board unanimously concluded that our threshold for recommendation as additionally unfitting was not met. In the matter of the headache, indigestion, subsequently diagnosed PTSD or any other conditions, the Board does not recommend a finding of unfit for additional rating at separation.

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RECOMMENDATION: The Board recommends that the CI’s prior determination be modified as follows, effective as of the date of his prior medical separation.

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| --- | --- | --- |
| **UNFITTING CONDITION** | **VASRD CODE** | **RATING** |
| CHRONIC LOW BACK PAIN DUE TO INTERVERTEBRAL DISC DISEASE | 5243 | 20% |
| **COMBINED** | **20%** |

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The following documentary evidence was considered:

Exhibit A. DD Form 294, dated 20090128, w/atchs.

Exhibit B. Service Treatment Record.

Exhibit C. Department of Veterans' Affairs Treatment Record.

