PHYSICAL DISABILITY BOARD OF REVIEW

RECORD OF PROCEEDINGS

NAME: BRANCH OF SERVICE: USCG

CASE NUMBER: PD0900217 BOARD DATE: 20100303

SEPARATION DATE: 20020219

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

SUMMARY OF CASE: This covered individual (CI) was an Electrician Mate First Classmedically separated from the Coast Guard in 2002 after 9 years of service. The medical basis for the separation was Degenerative Arthritis in Right and Left Knees. A Disposition Medical Board determined these conditions prevent consistent performance of his duties.

The CI’s right knee problem dates back to 19820226, when he was kicked on the knee by another child. He was diagnosed with contusion of right knee. He did well until 19851202 when he developed pain in right knee, following basketball and track. In 1986 he was later diagnosed with medial and lateral meniscus tears of right knee. He then underwent arthroscopic partial lateral meniscectomy of the right knee. After surgery he underwent physical rehabilitation and apparently became fully functional and pain-free after a few months. In 1991 the CI reported right knee pain to civilian physician in Roanoke, VA and was diagnosed with tendonitis of the right knee. He was instructed to take nonsteroidal anti-inflammatory medication and wear a Neoprene sleeve on right knee when doing sports. He underwent another arthroscopic partial lateral meniscectomy due to a right lateral meniscus tear on 19910517.

The CI entered active duty in 1992. In 19930709 he was evaluated by CG Support Center Portsmouth with a complaint of right knee pain and was diagnosed with a probable ACL strain and was treated with Motrin 800 mg by mouth three times a day, elastic bandage, and limited duty for 7 days. In 1996 an orthopedic surgeon diagnosed degenerative arthritis of right knee. Initial prognosis was fair, pending rehabilitation. After initial improvement, CI started to complain again about right knee pain, having trouble squatting, kneeling, prolonged standing, walking, and any attempt at running. He had a repeat arthroscopy of the right knee in January 2001 with a partial lateral meniscectomy.

The CI reported left knee pain and restriction of motion in August 1996 after playing basketball. He was diagnosed with minor left collateral tear or strain and rule-out meniscus tear. He was placed on limited duty and referred to physical therapy (PT) and an orthopedic surgeon. The surgeon diagnosed CI with degenerative arthritis of right knee. Due to renewed complaints of left knee pain, an Magnetic Resonance Imaging (MRI) of the left knee was performed 20010713 and it revealed a complex tear of posterior horn body and anterior horn of the lateral meniscus, partial tear of anterior cruciate ligament, possible **s**ubchondralcyst versusintraosseous ganglion within the anterior proximal tibia, and thinning of the articular cartilage involving the lateral patellar facet.

The CI was referred to the Physical Evaluation Board (PEB), found unfit for continued military service, and separated at 10% disability using the Veterans Affairs Schedule for Ratings Disabilities (VASRD) and applicable Coast Guard and Department of Defense regulations.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

CI CONTENTION: “The findings by the USCG (10% for my knees and back) are drastically different from the findings by the Veterans Administration Medical Center (VAMC) (100%) (50% for sleep apnea, 40% for my knees and back, 10% unemployability) for the same diagnosed injuries. At the time of my discharge only the one entity could be utilized and VAMC offered a higher rate.”

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

RATING COMPARISON:

|  |  |
| --- | --- |
| **Service PEB** | **VA (5 Mo. after Separation)** |
| **Unfitting Conditions** | **Code** | **Rating** | **Date** | **Condition** | **Code** | **Rating** | **Exam** | **Effective** |
| Degenerative Arthritis, Right Knee w/X-Ray Evidence | 5003 | 10% | 20011206 | Post-Operative Degenerative Joint Disease, Right Knee, w/some Narrowing of the Lateral Compartment | 5259 -5010 | 10%then20% | **20020715****20040409** | **20020220****20030828** |
| Degenerative Arthritis, Left Knee | 5003 | 0% | 20011206 | Degenerative Joint Disease, Left Knee | 5010 | 10%then20% | **20020715****20040409** | **20020220****20030828** |
| **Additional Conditions****(List All PEB Conditions)** | **PEB** | **DES****(If Yes, List Where: NARSM, H&P, Etc)** | **Condition****(List All VA Compensable Conditions)** | **Code** | **Rating** | **Exam** | **Effective** |
| No PEB Entry |  | **No** | Sleep Apnea | 6847 | 50% | **20011028** | **20020220** |
| No PEB Entry |  | **No** | Minor Degenerative Changes, Lumbar Spine, w/some Narrowing of the L4-5 Disk Space | 5010 -5292 | 10%40% | **20020715****20040218** | **20020220****20030828** |
| No PEB Entry |  | **No** | Carpal Tunnel Syndrome, Left Hand  | 8599-8515 | 10% | **20020715** | **20020220** |
| No PEB Entry |  | **No** | Carpal Tunnel Syndrome, Right Hand, w/Moderate Degenerative Changes | 5010 -8515 | 10% | **20020715** | **20020220** |
| No PEB Entry |  | **No** | Depression | 9434 | NSC |  |  |
| **TOTAL Combined: 10%** | **TOTAL Combined (*incl non-PEB Dxs): 70***% **from 20020220 90% from 20030828**  **Individual Unemployability Granted from 20020220**   |

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

ANALYSIS SUMMARY:

The Narrative Summary (NARSUM) documents both knees have slightly decreased flexion that does not meet the minimum compensable rating criteria for rating decreased range of motion (ROM) under VASRD 5260. The service examination does not document the presence or absence of painful motion but the VA Compensation and Pension (C&P) exam performed five months after separation did document painful motion in both knees. The service exam also documented a trace effusion in the right knee and a positive McMurray’s test in the left knee. Neither exam documented any knee instability or abnormal neurologic exam. Both knees had degenerative changes on X-rays and this was mild on the left and advanced on the right. Radiographs of the right knee show advanced degenerative arthritis involving the lateral joint line. Radiographs of the left knee show early degenerative arthritis of the medial joint line. An MRI of the left knee shows complex tear of the posterior horn body and anterior horn of the lateral meniscus and partial tear of the anterior cruciate ligament.

IAW VASRD §4.59 Painful motion each knee is rated as 5003 for ROM limited by pain that does not meet the minimum compensable ROM limitation in VASRD 5260. The right knee could also be rated with VASRD 5259 because of the previous repair of a meniscal tear with residual symptoms. Both codes result in the same rating of 10% and neither offers any advantage. The VA rated both knees using VASRD 5010 which is rated in the same manner as 5003 and applied the same rating percentage of 10% to each knee. These codes provide no advantage or disadvantage to the CI.

VASRD 5258 would provide a higher rating percentage if all criteria were met: Cartilage, semilunar, dislocated, with frequent episodes of “locking” pain, and effusion into the joint. The NARSUM states “no real catching or locking” of left knee. The VA C&P exam does not mention any complaint of locking. However, the initial VA rating determination states the service treatment record (STR) shows treatment for locking several times in service, beginning in July 1993. Only one instance of a complaint of locking in the left knee was present in the STR and this is from 1997. There were multiple entries with complaints of locking of the right knee prior to surgery in January 2001. Also, no complaints of swelling of the left knee were found in the STR. It appears more likely than not that the CI did not have frequent locking or swelling of the left knee and therefore VASRD 5258 cannot be applied.

At a later VA examination from 20040409 CI complained of locking in both knees as well as popping, cracking, and stabbing pain. He requested a walker due to degenerative joint disease and frequent falling. He had constant stiffness and throbbing. He arrived at exam in a wheelchair scooter and used a cane for pain and stability when walking. This cane had been prescribed by the VA kinesiotherapy clinic on 20020617. The right knee showed no heat, erythema, swelling or effusion and flexion limited to 90 degrees by pain. Left knee flexion was limited to 110 degrees by pain. This appears to be a worsening of the CI’s condition more than one year after separation. CI separated in 20020219 and had filed a claim for increased disability on 20030828, eighteen months after separation. After this evaluation, the VA increased the ratings for each knee to 20%.

|  |  |  |  |
| --- | --- | --- | --- |
| **Knee**Movement | Normal ROM | ROM MilNARSUM 20011002 | VA C&P 20020715 |
| Right Flex | 0 - 140 | 120 | 0 -140 w/pain |
| Right Ext | 0 - 0 | 0 | 0 – full extension w/pain |
| Notes: |  | - Normal gait- Gross crepitus at patellofemoral joint line- Tenderness to palpation about lateral joint line- Negative McMurray’s - Stable to varus and valgus stress- Negative Lachman, negative pivot shift, negative anterior and posterior drawer- Trace effusion-Neurovascular intact in bilateral lower extremities w/5/5 strength. CI sensation is intact to light touch throughout bilateral lower extremities, and has bounding pulses at dorsalis pedis and posterior tib- Radiographs show advance degenerative arthritis involving lateral joint line | - No edema, positive crepitation bilaterally- Stability (no motion) : Medial, Lateral, ACL, PCL; Medial Meniscus (McMurray’s) negative; Lateral Meniscus negative- Increase pain and weakness w/walking greater than 50 feet |
| Left Flex | 0 - 140 | 0-135  | 0 -140 w/pain |
| Left Ext | 0 - 0 | 0 | 0 – full extension w/pain |
| Notes: |  | - Normal gait- Some crepitus at the patellofemoral joint- Positive McMurray’s w/some pain along the medial joint line-MRI showed lateral meniscus tear-tender to palpation along medial joint line- Stable w/negative Lachman, negative pivot shift, negative anterior and posterior drawer, and stable to varus and valgus stress, no effusion- Neurovascular intact in bilateral lower extremities w/5/5 strength. CI sensation is intact to light touch throughout bilateral lower extremities, and has bounding pulses at dorsalis pedis and posterior tib | - Stability (no motion) : Medial, Lateral, ACL, PCL; Medial Meniscus (McMurray’s) negative; Lateral Meniscus negative- Increase pain and weakness w/walking greater than 50 feet |

Other Conditions **--** None are mentioned in any Disability Evaluation System (DES) documents: Sleep apnea,Minor Degenerative Changes, Lumbar Spine, w/some Narrowing of the L4-5 Disk Space, Carpal Tunnel Syndrome, Left Hand, Carpal Tunnel Syndrome, Right Hand, w/Moderate Degenerative Changes, and Depression

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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 Board to the extent they were inconsistent with the VASRD in effect at the time of the adjudication. After careful consideration of all available information the Board unanimously concluded that the CI’s condition is appropriately rated at a combined 20% with 10% for each knee under VASRD 5003 and a bilateral factor of 1.9.

The range of motion of both knees was limited by pain but the limitation did not reach the minimally compensable level of flexion limited to 45 degrees or extension limited to 10 degrees. Neither knee demonstrated joint instability or locking but both had degenerative changes on X-rays. Therefore both knee conditions are rated under 5003 IAW VASRD §4.59 Painful motion which recognizes painful motion with joint pathology as productive of disability.

The other conditions rated by the VA (Sleep Apnea; Minor Degenerative Changes, Lumbar Spine, w/some Narrowing of the L4-5 Disk Space; Carpal Tunnel Syndrome, Left Hand; Carpal Tunnel Syndrome, Right Hand, w/Moderate Degenerative Changes; and Depression) were not mentioned in the Disability Evaluation System package and are therefore outside the scope of the Board. The CI retains the right to request his service Board of Correction for Military Records (BCMR) to consider adding these conditions as unfitting.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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

|  |  |  |
| --- | --- | --- |
| **UNFITTING CONDITION** | **VASRD CODE** | **RATING** |
| Degenerative Arthritis, Right Knee | 5003 | 10% |
| Degenerative Arthritis, Left Knee | 5003 | 10% |
| **COMBINED (Incorporating BLF of 1.9)** | **20%** |

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

The following documentary evidence was considered:

Exhibit A. DD Form 294, dated 20090226, w/atchs.

Exhibit B. Service Treatment Record.

Exhibit C. Department of Veterans' Affairs Treatment Record.

