RECORD OF PROCEEDINGS

PHYSICAL DISABILITY BOARD OF REVIEW

NAME: BRANCH OF SERVICE: marine corps

CASE NUMBER: PD0900406 SEPARATION DATE: 20040630

BOARD DATE: 20110825

SUMMARY OF CASE: Data extracted from the available evidence of record reflects that this covered individual (CI) was an active duty LCpl/E-3 (0311, Rifleman) medically separated for thermal dysregulation (heatstroke). In September 2003, the CI collapsed after a three mile run and was diagnosed with heatstroke. Concerned about recurrence, he was placed on limited duty (LIMDU), was unable to meet physical fitness standards, and underwent a Medical Evaluation Board (MEB). Heatstroke was forwarded to the Physical Evaluation Board (PEB) as medically unacceptable IAW SECNAVINST 1850.4E. The PEB found the heatstroke condition unfitting, rated 10%. The CI accepted the PEB findings and was medically separated with 10% disability.

CI’s CONTENTION: “Member suffered heatstroke during training where a core temp of 108 degrees was recorded. Member has daily headaches and often sleep disorder. Member also suffers from serious depression that continues to worsen yearly. Member has held five jobs since separation and has been released from all mostly due to memory and comprehension problems. Member has also been counseled on the job requirement to follow good hygiene practices while at work. Although not taking any prescription medication member self medicates as much as possible through the use of alcohol. He has had several incidents of violent outbursts directed at various people to include his mother on two separate occasions. And has been cited by law enforcement under the open container law. He has disappeared for days a couple of times and always thinks people are out to get him.”

RATING COMPARISON:

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Navy IPEB – dated 20040325** | | | **VA (2 mo. Post-Separation) – All Effective 20040701** | | | |
| **Condition** | **Code** | **Rating** | **Condition** | **Code** | **Rating** | **Exam** |
| Thermal Dysregulation (Heatstroke) | 7999-7900 | 10% | Cognitive Disorder NOS | 8099-8045 | 10%\* | 20040826 |
| ↓No Additional MEB/PEB Entries↓ | | | 0% x 1/Not Service Connected x 3 | | | 20040824 |
| **Combined: 10%** | | | **Combined: 10%** | | | |

\* VA rating was initially denied, but 10% was later awarded following 20110204 appeal.

ANALYSIS SUMMARY: The Board acknowledges the sentiment expressed by the CI regarding the impact that his service incurred condition has had on his current earning ability and quality of life. However, the Disability Evaluation System (DES) has neither the role nor the authority to compensate service members for anticipated future severity or potential complications of conditions resulting in medical separation. This role and authority is granted by Congress to the Department of Veterans' Affairs.

Heatstroke. In September 2003, this Marine collapsed and lost consciousness following a three mile run. Prior to the run he felt weak and tired, but still ran. During the run he became light-headed, and noticed a lack of sweating. After the run, the CI collapsed and lost consciousness, injuring his shoulder when he fell to the ground. His rectal temperature was 108⁰ F. When he regained consciousness, he had significantly altered mental status, including disorientation and confusion. The CI was taken to the hospital for rehydration and cooling of his body temperature. Blood tests showed mild rhabdomyolysis (muscle breakdown) and he was also treated for a dislocated shoulder. There was no documented evidence of head injury. After two days of observation, he left the hospital and was put on eight months of LIMDU. It was determined that he would not be able to fully perform his required military duties, and he was referred for MEB/PEB. At his MEB physical exam on 12 January 2004, the CI complained of dizziness and headaches after physical training. He also complained of memory problems and insomnia. No significant abnormal findings were noted on the physical examination. Lab work and vital signs were all within normal limits. Psychiatric exam was considered grossly normal. As noted above, the Navy PEB found him unfit due to heatstroke, and he was separated with a disability rating of 10%. The unfitting condition was coded 7999-7900 (analogous to hyperthyroidism).

On 26 August 2004, eight weeks after separation, he underwent a VA psychiatric compensation and pension (C&P) exam. At that time, he complained of occasional dizziness and blurry vision. He also reported headaches, insomnia and memory problems. The examiner felt that the CI’s memory was intact, and his intelligence was above normal. Judgment and insight were sound. Computed tomography scan of the head was normal. Global assessment of functioning score was 66, and his prognosis was good. The VA initially denied service connection for altered mental status because there was no chronic psychological diagnosis, and it was felt that the symptoms would resolve. Later, the VA granted service connection for cognitive disorder not otherwise specified (8099-8045) and assigned a rating of 10%.

The Board carefully examined all evidentiary information available. At separation, the CI clearly had some subjective complaints such as headache, dizziness, insomnia, and memory problems. On the DD Form 294, the CI also brings up other issues involving depression, paranoia, cognitive deficits, and behavioral abnormalities. It is possible that all these changes could be residual symptoms from his prior episode of dehydration and hyperthermia, which may have caused a heat-related brain injury. After due deliberation and consideration of all the evidence, the Board unanimously recommends 10% as the fair, permanent separation rating for the heatstroke-related condition. It is appropriately coded 7999-7900 (IAW the VA Schedule for Rating Disabilities [VASRD] §4.20 and §4.119) and meets criteria for the 10% rating. The Board also unanimously agrees that none of the symptoms listed above would constitute a separately unfitting condition.

Remaining Conditions. Rhabdomyolysis, shoulder dislocation, ankle pain, and several other conditions were also noted in the DES file. None of these conditions were clinically significant during the MEB/PEB period, none were the basis for LIMDU, and none were implicated in the commander’s non-medical assessment. These conditions were all reviewed by the action officer and considered by the Board. There was no evidence that any of these conditions caused significant interference with duty performance. It was determined that none could be argued as unfitting and subject to separation rating. The Board therefore has no reasonable basis for recommending any additional unfitting conditions for separation rating.

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. In the matter of the heatstroke-related condition, IAW VASRD §4.20 & §4.119 the Board unanimously recommends no change in the PEB adjudication. In the matter of the rhabdomyolysis, shoulder dislocation, ankle pain, or any other conditions eligible for consideration, the Board unanimously agrees that it cannot recommend any findings of unfit for additional rating at separation.

RECOMMENDATION: The Board therefore recommends that there be no re-characterization of the CI’s disability and separation determination, as follows:

|  |  |  |
| --- | --- | --- |
| **UNFITTING CONDITION** | **VASRD CODE** | **RATING** |
| Chronic Symptoms due to Thermal Dysregulation (Heatstroke) | 7999-7900 | 10% |
| **COMBINED** | **10%** |

The following documentary evidence was considered:

Exhibit A. DD Form 294, dated 20090612, w/atchs.

Exhibit B. Service Treatment Record.

Exhibit C. Department of Veterans' Affairs Treatment Record.

President

Physical Disability Board of Review

MEMORANDUM FOR DIRECTOR, SECRETARY OF THE NAVY COUNCIL OF REVIEW

BOARDS

Subj: PHYSICAL DISABILITY BOARD OF REVIEW (PDBR) RECOMMENDATION

Ref: (a) DoDI 6040.44

(b) PDBR ltr dtd 6 Sep 11

I have reviewed the subject case pursuant to reference (a) and, for the reasons set forth in reference (b), approve the recommendation of the Physical Disability Board of Review XXXXX records not be corrected to reflect a change in either his characterization of separation or in the disability rating previously assigned by the Department of the Navy’s Physical Evaluation Board.

Assistant General Counsel

(Manpower & Reserve Affairs)