RECORD OF PROCEEDINGS

PHYSICAL DISABILITY BOARD OF REVIEW

NAME: BRANCH OF SERVICE: AIR FORCE

CASE NUMBER: PD0900427 SEPARATION DATE: 20071221

BOARD DATE: 20100922

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SUMMARY OF CASE: This covered individual (CI) was an A1C (E3, Airborne Cryptological Linguist [incompletely trained]) medically separated from the Air Force in 2007 after 27 months of active service. The medical basis for the separation was Asthma. While at the Defense Languages Institute in Monterey, CA, the CI developed chronic cough. She was evaluated by subspecialists and treated for bronchitis without improvement. CT scan and bronchoscope noted only small pulmonary nodules. Pulmonary function tests and Methacholine challenge testing were all normal; gastro-esophageal reflux disease was ruled out. She was diagnosed with cough variant asthma and treated with inhaled medications. On detailed re-evaluation at Travis AFB, CA, she was diagnosed with exercise induced asthma and continued on inhaled medication. She did not respond adequately to perform within her military occupation, was issued a temporary P-4 profile and underwent a Medical Evaluation Board (MEB). The MEB forwarded the Asthma condition to the Physical Evaluation Board (PEB) as medically unacceptable. No other conditions were noted on the AF Form 618. Additional conditions supported in the Disability Evaluation System (DES) packet are discussed below, but were not forwarded for PEB adjudication. The informal PEB determined the Asthma condition as unfitting, rated at 20%, with possible application of DoDI 1332.39 as there is no Veterans Administration Schedule for Rating Disabilities (VASRD) 20% rating for asthma. The CI appealed for a formal PEB that re-adjudicated her condition as unfitting at 10%. The CI was therefore medically separated with a 10% disability rating.

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CI CONTENTION: The CI states: “At the time of my discharge the USAF only allowed a 10% disability for my asthma. I am now rated 30% for the same condition by the Department of Veterans Affairs and believe that the 30% should go back to the date of discharge from the USAF and place on TDRL.”

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RATING COMPARISON:

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| --- | --- |
| **Service FPEB – Dated 20071130** | **VA (2.5 Mo. after Separation) – All Effective 20071222** |
| **Condition** | **Code** | **Rating** | **Condition** | **Code** | **Rating** | **Exam** |
| Asthma, Mild, Exercise Induced  | 6602 | 10% | Asthma | 6602 | 30% | 20080305 |
| ↓No Additional MEB Entries↓ | Eczema | 7806 | 10% | 20080305 |
| NSC X 3 |
| **TOTAL Combined: 10%** | **TOTAL Combined (*Includes Non-PEB Conditions*): 40%**   |

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ANALYSIS SUMMARY:

Asthma Condition. The CI’s Asthma was not a typical presentation. Her cough-variant Asthma was formally diagnosed by multiple pulmonary specialists and is a matter of record. As noted above, the Informal PEB determination of Asthma; 6602 at 20% was not IAW the VASRD (no 20% criteria). Her Formal PEB diagnosis of “Asthma, Mild, Exercise Induced” was not in dispute, and did not indicate reliance on DoDI 1332.39. The CI’s Pulmonary Function Tests (PFTs) were over 80 percent for both ratable parameters (FEV-1 and FEV-1/FVC), and rating hinges on frequency of medication for asthma. The Narrative Summary (NARSUM), IPEB and FPEB all noted use of daily inhaled medications, with the FPEB remarks of “she requires Advair (FLUTICASONE/SALMETROL) two times per day and Albuterol as needed…”. The VA post separation examination noted continued use of Advair. The applicable portions of the VASRD 6602 criteria are “daily inhalational or oral bronchodilator therapy” (30%) or “intermittent inhalational or oral bronchodilator therapy” (10%). The Board discussed the potential gap in the CI’s daily use of Advair as calculated by analyzing the “Medication Profile” for the amounts of medication the CI obtained. Given the consistent record of the CI’s being prescribed and using daily medication, the CI meets the 30% criteria of “daily inhalational or oral bronchodilator therapy, or; inhalational anti-inflammatory medication.” All evidence considered, the Board recommends coding 6602 at 30% as the fair, permanent separation rating for Asthma in this case.

Other Conditions. The NARSUM formally identified eczema condition as a diagnosis without indicating that it was unacceptable. The eczema was controlled by topical medications and there was no indication that it was unfitting. The CI was not profiled for any skin condition, was not restricted from wearing military gear and was not noted on the Commander’s statement as being duty limiting. All evidence considered, there is not reasonable doubt in the CI’s favor which supports the addition of eczema as an unfitting condition for separation rating. No other conditions were service connected with a compensable rating by the VA within twelve months of separation. There are therefore no additional conditions in this case appropriate for Board recommendation as additionally unfitting for separation rating.

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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 Board to the extent they were inconsistent with the VASRD in effect at the time of the adjudication. There is no firm evidence that there was FPEB reliance on DoDI 1332.39 for the CI’s permanent rating for Asthma; regardless, Asthma was adjudicated independently of that instruction by the Board. For the Asthma condition, the Board recommends by a 2:1 vote a rating of 30% coded 6602 IAW VASRD §4.97. The single voter for dissent (who recommended no re-characterization) submitted the appended minority opinion. In the matter of the eczema condition or any other medical conditions eligible for Board consideration, the Board unanimously agrees that it cannot recommend any findings 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 and that the discharge with severance pay be re-characterized to reflect permanent disability retirement, effective as of the date of her prior medical separation.

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| **UNFITTING CONDITION** | **VASRD CODE** | **RATING** |
| Asthma | 6602 | 30% |
| **COMBINED** | **30%** |

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The following documentary evidence was considered:

Exhibit A. DD Form 294, dated 20090701, w/atchs.

Exhibit B. Service Treatment Record.

Exhibit C. Department of Veterans' Affairs Treatment Record.

 Deputy Director

 Physical Disability Board of Review

MINORITY REPORT:

The CI was found unfit for Asthma on 30 November 2007 and rated at 10% by the IPEB. She was separated from the Air Force on 21 December 2007.

Rating asthma at the 10% level requires FEV-1 of 71 to 80% predicted, or, FEV-1/FVC of 71 to 80%, or; intermittent inhalation or oral bronchodilator therapy

Rating asthma at the 30% level requires FEV-1 of 56 to 70% predicted, or, FEV-1/FVC of 56 to 70%, or; daily inhalation or oral bronchodilator therapy.

The CI’s PFTs were over 80 percent for both ratable parameters (FEV-1 and FEV-1/FVC), so the rating hinges on her usage of medication, intermittent usage or daily usage.

The list below consists of both rescue and controller medications the CI obtained for treatment of her asthma. On 8 May 2007, the CI reported she “rarely uses her relief inhaler”. The rescue/relief medication is taken as needed and the list below supports occasional use. However, Advair, which the CI reported to be taking daily, is not supported by the medications she received. The medication profile clearly shows the CI was using her medication on an intermittent basis and not a daily basis.

The medication profile shows she received the following prescriptions:

Albuterol, quantity of one, on 27 January 2006, no refills

Triamcinolone Azmacort, quantity one, 10 April 2006, one refill

Triamcinolone Azmacort, quantity one, 20 November 2006, one refill

Levalbuterol, quantity one, on 21 November 2006, with one refill

Advair, quantity three, on 5 March 2007, no refills

Albuterol, quantity three, on 14 November 2007, with refills

Advair, quantity three, on 14 November 2007, with refills

The CI contends to be rated for daily inhalational or oral bronchodilator therapy. Based on the medication obtained and available for usage, I do not believe the evidence in this case supports daily use of inhalation medication and therefore should be rated as intermittent usage at 10%.

SAF/MRB

1535 Command Drive, Suite E-302

Andrews AFB, MD 20762-7002

 Reference your application submitted under the provisions of DoDI 6040.44 (Section 1554, 10 USC), PDBR Case Number PD-2009-00427.

 After careful consideration of your application and treatment records, the Physical Disability Board of Review determined that the rating assigned at the time of final disposition of your disability evaluation system processing was not appropriate under the guidelines of the Veterans Administration Schedule for Rating Disabilities. Accordingly, the Board recommended your separation be re-characterized to reflect disability retirement, rather than separation with severance pay.

 I have carefully reviewed the evidence of record and the recommendation of the Board. I concur with that finding, accept their recommendation and determined that your records should be corrected accordingly. The office responsible for making the correction will inform you when your records have been changed.

 As a result of the aforementioned correction, you are entitled by law to elect coverage under the Survivor Benefit Plan (SBP). Upon receipt of this letter, you must contact the Air Force Personnel Center at 1-800-531-7502 to make arrangements to obtain an SBP briefing prior to rendering an election. If a valid election is not received within 30 days from the date of this letter, you will not be enrolled in the SBP program unless at the time of your separation, you were married or had an eligible dependent child, in such a case, failure to render an election will result in automatic enrollment.

 Sincerely

Director

Air Force Review Boards Agency

Attachment:

Record of Proceedings

cc:

SAF/MRBR

DFAS-IN

PDBR PD-2009-00427

MEMORANDUM FOR THE CHIEF OF STAFF

 Having received and considered the recommendation of the Physical Disability Board of Review and under the authority of Section 1554, Title 10, United States Code (122 Stat. 466) and Section 1552, Title 10, United States Code (70A Stat. 116) it is directed that:

 The pertinent military records of the Department of the Air Force relating to XXXXXXXXX, be corrected to show that:

 a.  The diagnosis in her finding of unfitness for Asthma, VASRD code 6602, was rated at 30% rather than 10%.

 b.  On 21 December 2007, spouse coverage under the Survivor Benefit Plan (SBP) based on full retired pay was established.

 c.  She was not discharged on 21 December 2007 with entitlement to disability severance pay; rather, on that date she was relieved from active duty and on 22 December 2007 her name was placed on the Permanent Disability Retired List.

 Director

 Air Force Review Boards Agency