RECORD OF PROCEEDINGS

PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXXX BRANCH OF SERVICE: Marine corps

CASE NUMBER: PD0900494 SEPARATION DATE: 20051031

BOARD DATE: 20110504

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SUMMARY OF CASE: Data extracted from the available evidence of record reflects that this covered individual (CI) was an active duty Pvt (7212 / Air Defense Gunner), medically separated from the Marine Corps in 2005. The medical basis for the separation was mixed connective tissue disease (MCTD), with polymyositis and scleroderma features. Although treatment improved his symptoms, persistent symptoms and the chronic nature of the illness was not compatible with military duties. He was placed on limited duty and underwent a Medical Evaluation Board (MEB). MCTD was addressed and forwarded to the Physical Evaluation Board (PEB) as medically unacceptable IAW SECNAVINST 1850.4E. The associated polymyositis and scleroderma features, as identified in the rating chart below, were forwarded on the MEB submission and designated as related category II conditions. The PEB adjudicated the condition, rated 20% IAW SECNAVINST 1850.4E and DoDI 1332.39. The CI made no appeals, and was medically separated with a 20% disability rating.

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CI CONTENTION: He requests review of his rating for MCTD (scleroderma) but elaborates no specific contentions regarding rating or coding and mentions no additionally contended conditions.

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RATING COMPARISON:

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| --- | --- |
| **Service IPEB – Dated 20050914** | **VA (6 Mo. Pre Separation) – All Effective Date 20051101** |
| **Condition** | **Code** | **Rating** | **Condition** | **Code** | **Rating** | **Exam** |
| Mixed Connective Tissue Disease | 6399-63545021-5002 | 20% | Systemic Sclerosis | 6399-6350 | 60% | 20050427 |
| Polymyositis Features | Related Category II |
| Scleroderma Features |
| ↓No Additional MEB / PEB Entries↓ | Right Knee Strain | 5260 | 10% | 20051017 |
| Left Knee Strain | 5261 | 10% | 20051017 |
| Left Ankle Strain | 5271 | 10% | 20051017 |
| Left Ankle Scar | 7804 | 10% | 20051017 |
| Tinnitus | 6260 | 10% | 20050427 |
| 0% X 1 NSC X 0 | 20050427 |
| **Combined: 20%** | **Combined: 80%** |

ANALYSIS SUMMARY:

Mixed Connective Tissue Disease with Polymyositis and Scleroderma Features. The CI experienced the gradual onset of symptoms diagnosed as MCTD, an autoimmune disease that is characterized by the presence of overlapping symptoms of more than one autoimmune disease, particularly systemic lupus erythematosus (SLE), polymyositis, and scleroderma, along with the presence of a particular blood test finding (the auto-antibody “RNP”). MCTD can affect multiple organ systems and the CI manifested fatigue, sclerodermatous skin changes of the face, forearms, and hands, Raynaud’s phenomenon, muscle fatigue with use, difficulty swallowing due to esophageal dysmotility with gastroesophageal reflux and esophageal stricture, and shortness of breath on exertion that was initially thought to be due to interstitial lung disease, a manifestation affecting some patients with MCTD. Treatment resulted in significant improvements in symptoms; however, persisting symptoms and the chronic nature of the disease were not compatible with continued military service.

The PEB rated the CI’s systemic rheumatic disease 20% listing the VA Schedule for Rating Disabilities (VASRD) diagnostic codes for immune disorder (6399), chronic fatigue syndrome (6354), myositis (5021) and rheumatoid arthritis (5002); presumed to have been based on the rating criteria in 5002. The VA rated 60% under codes for immune disorder (6399) and systemic lupus erythematosus (6350), based on the supposition that the frequent clinic visits for comprehensive diagnostic evaluation and initial treatment equated to disease exacerbations. The SLE code rates based on exacerbations; however, the CI did not manifest exacerbations, but rather manifested a chronic course leading to diagnosis followed by steady improvement with treatment. Alternatively, the rating guidance for SLE provides for rating of specific residuals or manifestations such as lung disease, etc. There are VASRD rating criteria for several of the CI’s disease manifestations including fatigue (6354), esophageal dysmotility/stricture (7203), interstitial lung disease (6825), muscle involvement (5021, or other analogized code), Raynaud’s phenomenon (7117), and skin involvement (7821). Except for skin involvement, the Board concluded that none of these manifestations separately attained a minimum rating. By the time of the narrative summary (NARSUM) and June 2005 rheumatology follow up, the CI’s fatigue was improved and there were no periods of incapacitation due to fatigue (including in August 2005 with recurrent fatigue) that would warrant a minimum rating under the code for chronic fatigue syndrome. The CI had impaired esophagus functioning (esophageal dysmotility) with reflux, and solid food dysphagia due to an esophageal stricture. However, after dilation and treatment with medication he was asymptomatic and would not attain a minimum rating for this condition. The CI had stable mild shortness of breath on exertion. There was initial concern for interstitial lung disease that can occur with MCTD; however, repeat pulmonary function testing in April 2005 and lung scanning was normal. Therefore, the CI’s condition would not warrant a minimum rating for lung disease due to MCTD. The CI had exertional muscle fatigue with mildly elevated muscle enzymes and an abnormal electromyography (EMG) consistent with low grade inflammatory muscle disease (polymyositis feature). However, his muscle symptoms significantly improved and resolved with treatment, and strength testing was normal.

The Board concluded at the time of separation, rating for this manifestation would not attain a minimum rating. The CI had Raynaud’s phenomenon for two years brought on by any cold exposure with classic manifestations and pain. The Raynaud’s significantly improved with medication by the time of the April 2005 NARSUM, and was “minimal” or “resolved” by the time of June and August 2005 clinic follow up appointments. There was digital pitting but no frank digital ulcers. The Board concluded at the time of separation, rating for this manifestation would not attain a minimum rating. A dominant feature of his disease was his sclerodermatous skin involvement of exposed skin areas including face, hands and forearms. Non-exposed skin areas were not involved (upper arms, trunk, and lower extremities).

Although the NARSUM and service treatment records did not contain a detailed description of how much surface of the skin was actually involved, the descriptions reflect significant involvement of the face, but of a mild severity with some improvement by August 2005. There was also involvement of exposed areas of the upper extremities. The April 2005 compensation and pension (C&P) examiner estimated the degree of involvement of skin to be 20% of exposed skin surface. The Board considered that involvement was more likely in the 20% to 40% range based on examination reports in the service treatment records. In addition, the CI was on continuous immunosuppressive medication, but for less than 12 months. While this medication was not specifically for the skin, it was nevertheless prescribed for the disease in its totality. Based on these facts, the CI’s condition would attain a 30% rating for the cutaneous manifestation of his connective tissue disease (7821). There were no other disease manifestations that could be considered for separate rating (e.g. arthritis, kidney, cardiac), and a higher rating giving the benefit to the CI could not be attained using different codes.

The PEB rating appeared to be appropriate to the apparent global level of non-military occupational impairment, and post service VA records reflect fulltime employment. The Board discussed whether the skin manifestations were separately unfitting warranting a rating using the code for cutaneous manifestations as outlined above. The PEB determined that MCTD was unfitting and that the sclerodermatous skin manifestations were a significant clinical part of that condition contributing to the unfitting nature of the overall condition. Although not separately ratable as a category II condition, its relative contribution to the impairment is included in the overall rating for the primary unfitting condition as a single multi-symptom condition, rather than subjecting each symptom of MCTD to a separate fitness and coding determination. Note is made that guidance in SECNAVINST 1850.4E, advising use of the SLE code for rating other connective tissue diseases not elsewhere specifically covered by the VASRD, was not followed by the PEB. After due deliberation, considering all of the evidence and mindful of VASRD §4.3 (reasonable doubt), the Board recommends a separation rating of 30% for the MCTD (with features of scleroderma and polymyositis) coded 6350-7821, based on the sclerodermatous manifestions (7821 cutaneous manifestation of his connective tissue disease).

Remaining Conditions. The CI developed a compressive right radial nerve neuropathy in February 2005 as a result of sleeping on his arm. Neurology evaluation at that time documented decreased sensation and grip strength involving the right hand (left hand dominant), and projected recovery over several months. Examinations several months later documented upper extremity strength as normal. The April C&P examination recorded persistent numbness and weakness, but the examiner commented, “as to the radial nerve condition, this veteran has no significant functional limitations.” The CI fractured the left distal tibia at the ankle and underwent surgical repair in August 2005 while in limited duty status due to MCTD (and after the MEB and NARSUMs). Orthopedics examination five weeks post-operatively stated no complaints with decreased range of motion but intact motor function. At the C&P examination just before separation the CI complained of continued pain, was wearing a brace and walked with a limp. Post-separation rheumatology treatment records make no specific note of complaint of ankle problems. Neither the radial neuropathy nor the ankle problem were the cause for separation or considered by the MEB or PEB. The Board concluded the CI recovered sufficiently from both such that the conditions would not have been considered unfitting. Additionally right and left knee strain, left ankle strain, tinnitus, painful scars were noted in the VA rating decision shortly after separation, but were not documented in the DES file. The Board does not have the authority under DoDI 6040.44 to render fitness or rating recommendations for any conditions not considered by the DES. The Board therefore has no reasonable basis for recommending any additional unfitting conditions 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. In the matter of the mixed connective tissue disease with scleroderma and polymyositis features, the Board, by a vote of 2:1, recommends separation rating of 30% IAW VASRD §4.88b and §4.118, coded 6350-7821. The single voter for dissent (who recommended no recharacterization) submitted the addended minority opinion. The Board unanimously agrees that there were no other conditions eligible for Board consideration which could be recommended as additionally unfitting for separation rating.

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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 recharacterized to reflect permanent disability retirement, effective as of the date of his prior medical separation.

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| **UNFITTING CONDITION** | **VASRD CODE** | **RATING** |
| Mixed Connective Tissue Disease | 6350-7821 | 30% |
| **COMBINED** | **30%** |

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The following documentary evidence was considered:

Exhibit A. DD Form 294, dated 20090816, w/atchs.

Exhibit B. Service Treatment Record.

Exhibit C. Department of Veterans' Affairs Treatment Record.

 Deputy Director

 Physical Disability Board of Review

Minority Opinion:

I do not believe that separating out the sclerodermatous skin condition (classified as a contributing condition not separately ratable by the PEB) as a basis for increasing the CIs rating of MCTD is appropriate in this case. The skin disease, although a manifestation of the underlying MCTD, was not itself unfitting for continued military service. Examiners characterized the skin involvement as mild and there were no duty restrictions related to the skin condition. The skin condition was most appropriately categorized as category II, related but not separately unfitting or ratable.

The CI was unfit due to the totality of the MCTD (particularly the fatigue, loss of stamina and strength) causing the CI to be unable to meet the rigorous physical demands of military operational and physical training requirements, and the inability to deploy due the potential for disease worsening and requirement for long term specialty care and treatment. Additionally, the onset of the CI’s MCTD was insidious, and it appeared to improve with treatment over time. At the time of separation he apparently had good functioning.

The PEBs use of 6399-5002 as an analogous code for connective tissue disease based on one or two exacerbations a year and a well-established diagnosis was in my opinion, accurate and fair for his total disability picture at the time of separation. I recommend that there be no recharacterization of the CI’s disability and separation determination.

MEMORANDUM FOR DEPUTY COMMANDANT, MANPOWER & RESERVE AFFAIRS

Subj: PHYSICAL DISABILITY BOARD OF REVIEW (PDBR) RECOMMENDATION

 ICO XXXXXX, FORMER USMC, XXX XX XXXX

Ref: (a) DoDI 6040.44

 (b) PDBR ltr dtd 24 Jun 11

1. I have reviewed the subject case pursuant to reference (a) and approve the recommendation of the PDBR (reference (b)).

2. The subject member’s official records are to be corrected to reflect the following disposition:

 a. Separation from the naval service due to physical disability rated at 30 percent (increased from 20 percent) with transfer to the Permanent Disability Retired List effective 31 October 2005.

3. Please ensure all necessary actions are taken to implement this decision, including the recoupment of previously paid disability separation pay if warranted, and notification to the subject member once those actions are completed.

 Assistant General Counsel

 (Manpower & Reserve Affairs)