RECORD OF PROCEEDINGS

PHYSICAL DISABILITY BOARD OF REVIEW

NAME: BRANCH OF SERVICE: AIR FORCE

CASE NUMBER: PD0900558 BOARD DATE: 20100728

SEPARATION DATE: 20090428

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SUMMARY OF CASE: This covered individual (CI) was E-5/SSgt, 2A3/Tactical Aircraft Maintenance Craftsman medically separated from the Air Force in 2009 after nine years and six months of service. The medical basis for the separation was Sensorineural Hearing Loss. The CI was referred to the Physical Evaluation Board (PEB), determined unfit for the one condition, and separated at 0% disability using the Veterans Affairs Schedule for Ratings Disabilities (VASRD) and applicable Air Force and Department of Defense regulations.

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CI CONTENTION: The CI states: ‘Due to VA rating of 60% for condition.’

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RATING COMPARISON:

|  |  |
| --- | --- |
| **Service PEB 20081027** | **VA (22 and 27 days prior to Separation) 20090429** |
| **Condition** | **Code** | **Rating** | **Condition** | **Code** | **Rating** | **Exam** |
| Sensorineural Hearing Loss | 6100 | 0% | Right Ear Hearing Loss with Tinnitus and Vertigo Associated with Status Post Left Femur Fracture with Involvement of Muscle Group XIV and Residual Scar with Knee and Hip Disability | 6299-6205 | 60% | 20090406 |
|  |  | NOT IN DES | Lumbosacral Strain w/Degenerative Disc Changes at T12-L1 | 5237 | 20% | 20090401 |
|  |  | NARSUM(mention) | Status Post Left Femur Fracture with Involvement of Muscle Group XIV and Residual Scar with Knee and Hip Disability | 7805-5255 | 20% | 20090401 |
|  |  | NOT IN DES | Plantar Fasciitis, Right Foot | 5099-5020 | 0% | 20090401 |
|  |  | NOT IN DES | Inferior Patellar Tendonitis, Left Knee | 5299-5024 | 0% | 20090401 |
|  |  | NOT IN DES | Right Calf Muscle Spasms with Lateral Numbness | 5399-5311 | 0% | 20090401 |
|  |  | NOT IN DES | Erectile Dysfunction | 7522 | 0% | 20090401 |
|  |  | NOT IN DES | Migraine Headaches | 8100 | 0%0% | 20090401STR |
|  |  |  | 1 X NSC |  |  |  |
| **TOTAL Combined: 0%** | **TOTAL Combined (*Includes Non-PEB Conditions*):** **70% from 20090429**  |

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ANALYSIS SUMMARY:

In December 2003 the CI sustained a spiral fracture of his left femur in a skiing accident in Japan. He underwent orthopedic surgery on 20071223 with placement of a titanium rod. After surgery he immediately had right ear hearing loss and tinnitus due to a reaction to general anesthesia. The tinnitus was chronic and interfered with communication and disrupted sleep. He required constant hearing protection and was given an H3 profile. A hearing aid was fitted but he was not able to wear it as it made him feel ill and distorted/garbled speech sounds for him. Both the hearing loss and tinnitus caused some confusion in the workplace and in daily life. He reported significant difficulty understanding in the presence of any type of background noise. He also had an L2 profile for his femur fracture. With the H3, he did not meet the minimum PULHES requirement for his AF Specialty Code (AFSC) 2A3X3 of 333132. His AFSC requires a good line of communication. Due to his medical condition he had difficulties communicating with a group. This posed a safety risk to self and others working with member. The L2 did meet the minimum standard. He was given an option to retrain into another AFSC but he did not wish to cross train into any of the fields offered to him.

Hearing Loss:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|  | **Puretone Threshold Average** | **Maryland CNC Speech Discrimination Test** | **Tinnitus Match** | **Table VI** |
| **Right Ear** | 55 dB | 32% at 90 dBHL | 1500Hz at 10dB SL | XI |
| **Left Ear** | 4 dB | 100% at 50 dBHL | -- | I |

Using Table VII with the right ear XI and the left ear I, rating is 10%.

Other Conditions

Vertigo, Tinnitus, and Status Post Left Femur Fracture with Involvement of Muscle Group XIV and Residual Scar with Knee and Hip Disability

Vertigo:

No evidence this condition was unfitting. Multiple service treatment record (STR) entries specifically denied vertigo and it was not mentioned in the Narrative Summary (NARSUM). It was reported as a symptom in both the Audio and the General Medical VA Compensation and Pension (C&P) examinations which were done prior to separation from service. The General Medical C&P exam stated ‘No effect on work’. He had normal gait, stance, and coordination as well as a negative Romberg on examination. There were no duty restrictions attributable to vertigo and no evidence it interfered with performance of any required duties.

Tinnitus:

Tinnitus should be considered unfitting. The VA Audio C&P was done 20090406, prior to separation from service. It reported that the CI had chronic tinnitus that interfered with communication. AF Form 422, *Physical Profile Serial Report*, stated the CI’s PUHLES (112311) did not meet his AFSC’s minimum requirement of 333132. The hearing profile is required to be 1 and his was 3 (The L2 profile, presumably for his femur fracture met the minimum standard of 3 for his AFSC.). It stated the CI’s AFSC required a good line of communication and the CI’s medical condition resulted in difficulties communicating. This posed a safety risk to the CI and others working with him.

Chronic tinnitus is repeatedly reported in both service and VA records.

Status Post Left Femur Fracture with Involvement of Muscle Group XIV and Residual Scar with Knee and Hip Disability:

No evidence this condition was unfitting at the time of separation from service.

The last profile in STR was dated 20080624, approximately six months after surgery and ten months prior to separation. It stated the CI was in rehabilitation phase and the CI was limited to no mandatory running but should be allowed to gradually resume low impact cardio and running as tolerated. It noted that a new profile was to be issued in mid-July 2008. It also mentioned duties where decreased hearing would put member or mission at risk. An outpatient orthopedic visit note in January 2009 reported CI was continuing to improve in terms of functional level before developing symptoms (up to 3-4 miles running). The latest femur x-ray showed significant improvement of healing. He continued to have knee symptoms and physical examination was consistent with a possible meniscal tear. Magnetic Resonance Imaging (MRI) and/or arthroscopy were discussed but CI wanted to avoid further surgery and orthopedic surgeon thought this was reasonable as he continuing to improve. On 20080724 his profile was extended 30 days with running as tolerated and remainder of cardio should be low impact. A profile dated 20080912 was L2 and H3 but no specific limitations related to running or his left leg were included.

AF Form 422 stated the CI’s PUHLES (112311) did not meet his AFSC’s minimum requirement of 333132. The lower extremity profile was required to be 3 and his was a 2.

Other Conditions Not in the Disability Evaluation System (DES)

Lumbosacral Strain with Degenerative Disc Changes at T12-L1; Plantar Fasciitis, Right Foot; Inferior Patellar Tendonitis, Left Knee; Right Calf Muscle Spasms with Lateral Numbness; Erectile Dysfunction; and Migraine Headaches

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BOARD FINDINGS: IAW DoDI 6040.44, the Board used the Veteran’s Affairs Schedule of Rating Disabilities (VASRD) as the most favorable basis for rating. After careful consideration of all available information the Board unanimously determined that the CI’s condition of Sensorineural Hearing Loss is most appropriately rated at 10% under VASRD code 6100.

In accordance with VASRD §4.85 Evaluation of hearing impairment, hearing loss is rated based on the puretone threshold average and speech discrimination test results for each ear. Table VI is used to determine numeric designations and Table VII is used to determine rating. With the right ear as an XI and the left ear as a I, the rating is 10%.

The Board considered the condition of Tinnitus and unanimously determined that this condition was unfitting at the time of separation from service and appropriately rated at 10%. Tinnitus interfered with effective communication which is required for the CI’s AFSC and is therefore considered unfitting. Tinnitus interfered with effective communication and this posed a safety risk to the CI and his coworkers. Effective communication is required to function as a Tactical Aircraft Maintenance Craftsman.

The Board considered the condition of Vertigo and unanimously determined that this condition was not unfitting at the time of separation from service and therefore no disability rating is applied. There was no evidence this condition interfered with satisfactory performance of any required duties and no duty restrictions attributable to this condition.

The Board considered the condition of Status Post Left Femur Fracture with Involvement of Muscle Group XIV and Residual Scar with Knee and Hip Disability and unanimously determined that this condition was not unfitting at the time of separation from service and therefore no disability rating is applied. There was no evidence this condition interfered with satisfactory performance of any required duties and no duty restrictions attributable to this condition.

The other diagnoses rated by the VA (Lumbosacral Strain with Degenerative Disc Changes at T12-L1; Plantar Fasciitis, Right Foot; Inferior Patellar Tendonitis, Left Knee; Right Calf Muscle Spasms with Lateral Numbness; Erectile Dysfunction; and Migraine Headaches) 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.

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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.

|  |  |  |
| --- | --- | --- |
| **UNFITTING CONDITION** | **VASRD CODE** | **RATING** |
| Sensorineural Hearing Loss | 6100 | 10% |
| Tinnitus | 6260 | 10% |
| **COMBINED**  | **20%** |

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The following documentary evidence was considered:

Exhibit A. DD Form 294, dated 20090911 w/atchs.

Exhibit B. Service Treatment Record.

Exhibit C. Department of Veterans' Affairs Treatment Record.

 Deputy Director

 Physical Disability Board of Review

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-2009-00558.

 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 modification of your assigned disability rating without re-characterization of your 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 direct that your records be corrected as set forth in the attached copy of a Memorandum for the Chief of Staff, United States Air Force. The office responsible for making the correction will inform you when your records have been changed.

 Sincerely

Director

Air Force Review Boards Agency

Attachments:

1. Directive

2. Record of Proceedings

cc:

SAF/MRBR

DFAS-IN

PDBR PD-2009-00558

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) it is directed that:

 The pertinent military records of the Department of the Air Force relating xxxxxxxxxxxxx, be corrected to show that the diagnosis in his finding of unfitness was Sensorineural Hearing Loss, VASRD Code 6100, rated at 10% and Tinnitus, VASRD Code 6260, rated at 10% with a combined total rating of 20%; rather than Deafness in Left Ear with Tinnitus, VASRD Code 6100, rated at 0%.

 Director

 Air Force Review Boards Agency