RECORD OF PROCEEDINGS

PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXXX BrANCH OF SERVICE: mARINE CORPS

CASE NUMBER: PD0900579 SEPARATION DATE: 20060415

BOARD DATE: 20110428

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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 SSgt (4341, Public Affairs Chief) medically separated from the Marine Corps in 2006. The medical basis for the separation was chronic bilateral plantar fasciitis. The CI initially injured her left foot in January 2004 and was diagnosed with a sesamoid fracture, and sesamoiditis. A magnetic resonance imaging (MRI) showed increased bone marrow signal to the lateral sesamoid consistent with injury, and the CI was diagnosed with plantar fasciitis. She was placed on limited duty (LIMDU), treated with physical therapy, and subsequently deployed to Iraq where she developed right foot pain. The CI was evaluated by podiatry and diagnosed with bilateral hallus limitus, sesamoiditis and plantar fasciitis. Upon return, she underwent a right bunionectomy, and later developed residual hallux limitus and continuous pain in both feet. The CI was placed on another LIMDU, did not respond adequately to treatment, and was unable to perform within her military occupational specialty or participate in a physical fitness test. She was referred to a Medical Evaluation Board (MEB). The MEB forwarded “other disorders of the bone and cartilage,” plantar fascial fibromatosis, and unequal leg length (acquired) to the Physical Evaluation Board (PEB). The PEB adjudicated “chronic bilateral plantar fasciitis” as unfitting rated with the disability code of 5399-5311 at 10% and 10% (combined 20% with bilateral factor). The PEB adjudicated the “chronic bilateral sesamoiditis with left foot sesamoid shift” as Category II (conditions that contribute to the unfitting condition). The CI made no appeals, and was medically separated with a 20% combined disability rating.

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CI CONTENTION: The CI states: “I was diagnosed w/two conditions causing me to be unfit: 1. Chronic bilateral plantar fasciitis and 2. Chronic bilateral sesamoiditis w/left foot sesamoid shift. The original PEB stated the second condition was related to the first and therefore did not give it a disability rating. According to the podiatrist who was treating me, these were and are two separate conditions and should have been rated as that. Approximately seven months after being medically discharged from the Marine Corps, I was seen at the VA Hospital in Denver for a Compensation Evaluation from which I was found to be 100% service-connected disabled. I was given a disability rating of 30% alone for “service connection for bilateral plantar fasciitis with chronic bilateral sesamoiditis with history of left sesamoid fracture and bilateral talus degenerative joint disease” and received 10% for ‘post-bunionectomy rt foot.’ These conditions should have all been considered separately during my initial PEB when I was medically discharged. In my original package to the PEB, the medical doctor who initiated my PEB stated that she found not only did I have the conditions listed above but I also have (according to x-rays performed 24 March 2004) ‘*AP pelvis showing* mild pelvic tilt with some asymmetry in the height of the femoral heads with the left being approximately 2 cm greater…’ This was initially also included on the PEB cover sheet as 736.81 – Unequal Leg Length (acquired) but was later crossed out. My original package also states that I have hallux valgus (5280) and under past surgical history it states that 12 August 2005 I had surgery on my ‘right metatarsal head with external fixation, capsulorrhaphy of the right first metatarsophalangeal joint.’ I am asking that these conditions as noted in my original PEB package be looked at and rated accordingly.” –

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RATING COMPARISON:

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| --- | --- | --- | --- | --- | --- | --- |
| **Service IPEB – Dated 200nnn** | | | **VA (7 Mo. After Separation) – All Effective Date 20060416** | | | |
| **Condition** | **Code** | **Rating** | **Condition** | **Code** | **Rating** | **Exam** |
| Chronic Bilateral Plantar Fasciitis | 5399-5311 | 10% | Bilateral Plantar Fasciitis w/Chronic Bilat Sesamoiditis w/ hx. L Sesamoid Fx and Bilat Talus DDD | 5099-5276 | 30% | 20070103 |
| 5399-5311 | 10% |
| Chronic Bilateral Sesamoiditis w/Left Foot Sesamoid Shift | Category II | |
| ↓No Additional MEB/PEB Entries↓ | | | R Foot S/P Bunionectomy | 5280 | 10% | 20070103 |
| Herpes Simplex | 7899-7806 | 60% | 20070103 |
| Facial Melasma | 7899-7806 | 30% | 20070103 |
| PTSD w/Depressive … | 9411 | 30% | 20070108 |
| LUE Thoracic Outlet Syn | 8512 | 30% | 20070103 |
| RUE Thoracic Outlet Syn | 8512 | 20% | 20070103 |
| Thoracolumbar w/DDD & T4-T5 sensory … | 5243-5237 | 10% | 20070103 |
| Cervical Strain | 5237 | 10% | 20070103 |
| RLE Radiculopathy / Polyneuropathy … | 8520 | 10% | 20070103 |
| Hypothyroidism | 7903 | 10% | unk |
| LLE Polyneuropathy a/w Hypothyroidism | 8521 | 10% | 20070103 |
| 0% x 8 / Not Service Connected x 5 | | | |
| **Final Combined: 20%** | | | **Total Combined: 100%** | | | |

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ANALYSIS SUMMARY: The Board notes the current VA ratings listed by the CI for all of her service connected conditions. The Disability Evaluation System (DES) is responsible for maintaining a fit and vital fighting force. While the DES considers all of the service member's medical conditions, compensation can only be offered for those medical conditions that cut short a service member's career, and then only to the degree of severity present at the time of final disposition. The VA ratings which it considers in that regard are those rendered most proximate to separation. The DES has neither the role nor the authority to compensate service members for their anticipated future severity or potential complications of conditions resulting in medical separation. That role and authority is granted by Congress to the Veteran’s Administration.

Chronic Bilateral Foot Conditions (Plantar Fasciitis and Chronic Bilateral Sesamoiditis with Left Foot Sesamoid Shift): The CI was found unfit for bilateral foot pain and inability to perform her public relations duties which included prolonged standing and conducting physical fitness training (PFT) with enlisted Marines. The CI had diagnoses of chronic bilateral plantar fasciitis (unfitting) and “chronic bilateral sesamoiditis with left foot sesamoid shift” as category II. However, the symptoms and disability of sesamoiditis and plantar fasciitis are not distinctly separable and the two conditions are frequently medically linked. The PEB category II designation likely led to the CI’s chronic bilateral sesamoiditis with left foot sesamoid shift not being considered in the rating for the disability of the CI’s bilateral foot conditions. The PEB also indicated left and right foot conditions coded under 5311 (muscle group XI) at 10% each.

The MEB exam and narrative summary (NARSUM) six months pre-separation noted that the CI had continued pain in both feet with continued need for a Cam walker (lower extremity boot that provides support, protection and immobilization of ankle post-injury/surgery) on the right. The exam demonstrated that the CI had right foot mild swelling of the distal, medial foot, tenderness to palpation over the arch, dorsal surface of the first metatarsophalangeal joint and Sesamoid. The left foot showed tenderness to palpation over the arch, plantar surface of the first metatarsophalangeal joint and over the sesamoid, along with bilateral ankle pronation. The examiner further noted that the MRI on 10 November 2004 of the left foot indicated lateral sesamoid bone injury. The examiner opined that, “it was unlikely that the CI would be able to return to full duty” and recommended that wearing combat boots and carrying heavy packs would cause undue stress in both feet and the CI should have limitations of no daily PFT, running, contact sports, prolonged standing or walking greater than ten minutes per hour, and no marches, humps, field duty or deployments.

The CI was seen in podiatry clinic three months pre-separation on 17 November 2006 which documented that the there was excessive supination of both feet secondary to compensation, pain elicited by motion of the feet with right foot tenderness on palpation of the head of the first metatarsal, and left foot tenderness on palpation of the calcareous and the ball of the plantar lateral 1st met head. The CI had an additional podiatry examination on 26 January 2006, that was an addendum to the MEB exam, which documented her bilateral antalgic gait, walking with supination to alleviate discomfort to the bilateral medial aspects of her feet and tenderness to palpation along the plantar central arch bilaterally. The examiner found that the range of motion (ROM) of the right foot (hallux) dorsiflexion was limited to 20 degrees and on the left was 40 degrees with endpoints limited by discomfort. Ankle ROM was “greater than 10 degrees with her knee straight and approximately 15 degrees with her knee bent” (normal ROM is 20 degrees dorsiflexion, 45 degrees plantar flexion). The CI’s condition was not improved by orthopedic appliances or surgery. The NARSUM addendum three months prior to separation indicated bilateral hallux limitus, with right more severe than the left, and early stages of gastrocnemius equinius bilaterally.

The VA compensation and pension (C&P) examination on 3 January 2007, seven months post-separation, was not significantly different from the MEB examination, aside from greater complaints of pain. The VA noted that the CI had daily foot pain if she walked too long with pain in the left heel which worsened with weight bearing. An X-ray done at this exam showed spurring of the right talus. Leg length measurements were equal, but the examiner conceded the X-ray measured length discrepancy from the record. The VA coded the CI’s foot conditions as 30% for bilateral plantar fasciitis with chronic bilateral sesamoiditis with history of left sesamoid fracture and bilateral talus degenerative disc disease (DDD). The VA and PEB chose different coding options for the CI’s bilateral foot conditions which materially impacted the level of disability rating. The PEB used the VA Schedule for Rating Disabilities (VASRD) as per §4.73, code 5311 group XI function, propulsion, plantar flexion of foot, stabilization of arch and flexion of toes, and a 10% for each foot (combined 20%). The VA considered the CI’s foot conditions (bilateral plantar fasciitis with chronic bilateral sesamoiditis with history, left sesamoid fx and bilateral talus DDD) as combining for foot disability IAW VASRD §4.71a using rating analogously to code 5276 (flatfoot, acquired), and awarded the CI a rating of 30% (severe, bilateral) indicating the 5276 criteria of “objective evidence of marked deformity; pain on manipulation” were present along with swelling on use. The VA additionally rated the right foot at 10% (code 5280) for status post-bunionectomy.

The Board deliberated on the overlap of symptoms of the CI’s unfitting “chronic bilateral plantar fasciitis” versus the service-aggravated chronic bilateral sesamoiditis with left foot sesamoid shift, and if “hallux limitus with right more severe than the left” (following bunionectomy) were part of the CI’s disability picture and rating considerations. The Board considered the PEB’s analogous coding 5399-5311 under §4.73 did not easily encompass the CI’s complex feet pathology. The Board considered that “evidence of inability to keep up with work requirements” IAW §4.56 (moderately severe) may have provided a higher rating, but could not be apportioned to either the left or right foot condition. The VA’s analogous coding 5099-5276 under flatfoot, acquired (pes planus), allowed for coding both feet under a single rating; however, it did not appear to represent the CI’s foot pathology. The Board agreed that the most appropriate coding was under 5284 foot injuries, other. The Board deliberations focused on each foot on either moderate (10%) or severe (20%). After due deliberation considering all evidence and mindful of VASRD §4.3 (reasonable doubt), the Board recommends: a separation rating of 10% for the left chronic plantar fasciitis/sesamoiditis with sesamoid shift condition coded 5284, and a separation rating of 20% for the right chronic plantar fasciitis / sesamoiditis with surgical residuals, coded 5284.

Herpes Simplex. The herpes simplex was rated by the VA at 60% within seven months after separation. Herpes simplex was noted on the MEB history and physical (H&P) exam in the DES package as part of the past medical history. Treatment records and a later VA evaluation indicated that the condition was stable with medication for control. There was no indication that this condition contributed to the CI’s LIMDUs for her foot condition. No link for fitness can be drawn for the herpes condition. All evidence considered, there is not reasonable doubt in the CI’s favor supporting addition of herpes simplex as an unfitting condition for separation rating.

Facial Melasma. The facial melasma was rated by the VA at 30% within seven months after separation. Facial melasma was noted on the MEB H&P exam in the DES package as part of the past medical history. The NARSUM focused predominately on the foot conditions. There was no indication that this condition contributed to the CI’s LIMDUs for her foot condition. No link for fitness can be drawn for the facial melasma condition. All evidence considered, there is not reasonable doubt in the CI’s favor supporting addition of facial melasma as an unfitting condition for separation rating.

PTSD With Depressive Disorder, Not Otherwise Specified (NOS). The PTSD with depressive disorder, NOS was rated by the VA at 30% within seven months after separation. PTSD with depressive disorder, NOS was noted on the MEB H&P exam in the DES package as part of the past medical history. The NARSUM focused predominately on the foot conditions. There was no indication that this condition contributed to the CI’s LIMDUs for her foot condition. No link for fitness can be drawn for the PTSD with depressive disorder, NOS. A VA C&P examination for PTSD was performed seven months after separation on 3 January 2007, in which the examiner documented the CI was not receiving treatment for PTSD (no psychotherapy or medications), nor did she have any emergency room visits for this condition. The examiner further opined that the CI was “able to maintain activities of daily living including personal hygiene.” Regarding the depression, the examiner noted that the CI had many ongoing symptoms of depression which began following her first childbirth. The global assessment functioning (GAF) was in the range of moderate difficulty in social and occupation impairment (GAF=58); however, the examiner opined that the GAF score was for combined diagnoses on Axis I and represented functioning for the prior three months. All evidence considered, there is not reasonable doubt in the CI’s favor supporting addition of PTSD with depressive disorder, NOS as an unfitting condition for separation rating.

Left Upper Extremity Thoracic Outlet Syndrome. The left upper extremity thoracic outlet syndrome condition was rated by the VA at 30% within seven months of separation and was noted in the DES package. There was no indication that this condition contributed to the CI’s LIMDUs for her foot condition. At the VA C&P examination for neurology, the examiner documented a positive Adson’s maneuver bilaterally which produced paresthesias in her hands resulting in a sensorimotor peripheral neuropathy with hypothenar and thenar wasting with only a mild hand weakness. All evidence considered, there is not reasonable doubt in the CI’s favor supporting addition of left upper extremity thoracic outlet syndrome as an unfitting condition for separation rating.

Right Upper Extremity Thoracic Outlet Syndrome. The right upper extremity thoracic outlet syndrome condition was rated by the VA at 20% within seven months of separation and was noted in the DES package. There was no indication that this condition contributed to the CI’s LIMDUs for her foot condition. During the VA C&P examination for neurology, the examiner documented a positive Adson’s maneuver bilaterally which produced paresthesias in her hands resulting in a sensorimotor peripheral neuropathy with hypothenar and thenar wasting with only a mild hand weakness which was less on the right side. All evidence considered, there is not reasonable doubt in the CI’s favor supporting addition of right upper extremity thoracic outlet syndrome as an unfitting condition for separation rating.

Other Conditions. Thoracolumbar back strain with DDD and T4-T5 sensory impairment, cervical strain, right lower extremity radiculopathy with distal polyneuropathy hypothyroidism, and left lower extremity polyneuropathy associated with hypothyroidism. These conditions were each rated 10% by the VA. These conditions were noted in the DES package. The CI also contended for “unequal leg length (acquired);” however, this is not a ratable disability. There was no specific indication that these condition contributed to the CI’s LIMDUs for her foot condition; however, any overlap with the disability of the feet was considered in the CI’s primary unfitting diagnoses. There was speculation by the CI’s provider post-separation, that the CI’s thyroid condition and multiple joint and soft tissue complaints were linked to a connective tissue disease. However, there was no definitive diagnosis or indication that any symptom complex other than the feet rose to the level of being unfitting at the time of separation. All evidence considered, there is not reasonable doubt in the CI’s favor supporting addition of any of these conditions as an unfitting condition 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. As discussed above, the PEB may have relied upon SECNAVINST 1850.4E or DoDI 1332.39 for rating the CI’s foot conditions and the conditions were adjudicated independently of those regulations by the Board. In the matter of the bilateral plantar fasciitis condition, the Board unanimously recommends combining the condition and rating with the chronic bilateral sesamoiditis with left foot sesamoid shift condition as a combined unfitting condition, and the Board unanimously recommends that these conditions be coded as a separation rating of 10% for the left chronic plantar fasciitis/sesamoiditis with sesamoid shift condition coded 5284, and a separation rating of 20% for the right chronic plantar fasciitis/sesamoiditis with surgical residuals coded 5284, both IAW §4.71a. In the matter of herpes simplex, facial melasma, PTSD with depressive disorder, NOS, left and right upper extremity thoracic outlet syndromes, thoracolumbar back strain with DDD and T4-T5 sensory Impairment, cervical strain, right lower extremity radiculopathy with distal polyneuropathy, hypothyroidism, left lower extremity polyneuropathy associated with hypothyroidism conditions 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 recharacterized to reflect permanent disability retirement, effective as of the date of her prior medical separation.

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| --- | --- | --- |
| **UNFITTING CONDITION** | **VASRD CODE** | **RATING** |
| Left Chronic Plantar Fasciitis/Sesamoiditis with Sesamoid Shift | 5284 | 10% |
| Right Chronic Plantar Fasciitis/Sesamoiditis with Surgical Residuals | 5284 | 20% |
| **COMBINED** | **30%** |

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The following documentary evidence was considered:

Exhibit A. DD Form 294, dated 20090921, w/atchs.

Exhibit B. Service Treatment Record.

Exhibit C. Department of Veterans' Affairs Treatment Record.

Deputy Director

Physical Disability Board of Review

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 11 May 11

1. I have reviewed the subject case pursuant to reference (a) and approve the recommendation of the Physical Disability Board of Review (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 15 April 2006.

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.

Principal Deputy

Assistant Secretary of the Navy

(Manpower & Reserve Affairs)