RECORD OF PROCEEDINGS

PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXX BRANCH OF SERVICE: MARINE CORPS

CASE NUMBER: PD0900592 SEPARATION DATE: 20020814

BOARD DATE: 20101222

SUMMARY OF CASE: Data extracted from the available records reflects that this covered individual (CI) was an active duty Corporal/E-4 (2171, Electro Optical Repair Technician) medically separated from the Marine Corps in 2002 after over five years of service. He developed chronic bilateral foot and ankle pain, starting in 2000 and worsening until his separation. The medical basis for the separation was Sinus Tarsi Syndrome. The CI was referred to the Physical Evaluation Board (PEB), determined unfit for the Sinus Tarsi Syndrome condition, and separated at 10% disability using the Veterans Affairs Schedule for Rating Disabilities (VASRD) and applicable Naval and Department of Defense regulations.

CI CONTENTION: The CI states: “Marine Corps discharged me with a 10% disability; however, the VA (upon review of my medical record) reclassified my disability at 50%”.

RATING COMPARISON:

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| **Service IPEB** | | | | **VA Exam: 20020530 (2.5 Months Prior to Separation)** | | | |
| **Condition** | **Code** | **Rating** | **Date** | **Condition** | **Code** | **Rating** | **Effective** |
| Sinus Tarsi Syndrome | 5279 | 10% | 20020514 | Left Ankle Sprain | 5299-5271 | 10% | 20020815 |
| Right Ankle Sprain | 5299-5271 | 10% | 20020815 |
| Tendonitis, Anterior Tibialis and Posterior Tibialis |  | CAT II | |  |  |  |  |
| Hallux Abductovalgus, Bunion Deformity |  | CAT II | |  |  |  |  |
| Pes Planus, Bilateral |  | CAT II | | Pes Planus with Hallux Valgus Deformity and Bunion Deformity, Left Foot | 5299-5276 | 10% | 20020815 |
| Pes Planus with Hallux Valgus Deformity and Bunion Deformity, Right Foot | 5299-5276 | 10% | 20020815 |
|  |  | NARSUM | | Patellofemoral Pain Syndrome, Right Knee | 5299-5260 | 10% | 20020815 |
|  |  | NARSUM | | Patellofemoral Pain Syndrome, Left Knee | 5299-5260 | 10% | 20020815 |
| **TOTAL Combined: 10%** | | | | **TOTAL Combined (*Includes Non-PEB Conditions*):**  **50% from 20020815** | | | |

ANALYSIS SUMMARY:

Sinus Tarsi Syndrome Condition. The CI was separated on 20020814 for Sinus Tarsi Syndrome with chronic bilateral foot and ankle pain rated analogously as code 5279, Metatarsalgia, anterior, (Morton’s Disease), unilateral or bilateral, which assigns only a 10% rating. Tendinitis, Anterior and Posterior Tibialis, Pes Planus, bilateral, and Hallux Valgus with Bunion Deformity, bilateral, were all considered to be related Category II conditions. The CI’s enlistment history and physical of 19970317 documented a normal arch with no other findings related to the feet and ankles. A military examination performed 20020123 documented an abnormal foot exam with full range of motion, 5/5 motor strength, and pes planus. It is apparent that the CI developed an acquired pes planus over time while on active duty. The narrative summary (NARSUM) did state that the CI had never had any knee or foot problems before enlistment.

The NARSUM did note a history of knee strain secondary to strenuous physical activity. On 20010404 he was diagnosed with shin splints after a Physical Fitness Test (PFT). Referral to Podiatry resulted in a Limited Duty Board on 20010504 with a diagnosis of bilateral plantar fasciitis. He was treated with various off-the-shelf and custom orthotics without resolution of symptoms. Military radiographs and Bone Scans were not present in the service treatment record (STR) but the NARSUM noted that a bone scan documented bilateral symmetric intense uptake in the navicular bones that corresponded to plain films. And this was consistent with pronatory changes seen in his feet, increased stress of the middle arch and first x-ray. VA X-ray 20020530 showed bilateral loss of normal plantar calcaneal arch, providing evidence of excessive pronation. The Joint Disability Evaluation Tracking System (JDETS) Findings and Recommended Disposition Work Card of 20020430 noted pes planus with bilateral bunion deformity, pronated feet and antalgic gait. It further stated that the CI had chronic persistent foot pain that made him unable to tolerate excessive walking or prolonged standing. While the majority of individuals with pes planus have no foot problems, some individuals develop significant symptoms which can include foot pain, as well as ankle, lower leg, knee, hip, and/or back pain. The question considered at length by the Board was how to best rate his unfitting condition of his feet at the time of separation. The clinical diagnosis of Sinus Tarsi Syndrome, rated as Metatarsalgia, Anterior, may not best describe his condition. The diagnosis of Sinus Tarsi Syndrome would not normally be a primary diagnosis that would result in secondary pes planus, tendinitis, and hallux valgus deformity. Acquired pes planus however, may often be associated with secondary conditions such as chronic foot pain, anterior and posterior tibialis tendinitis, and Sinus Tarsi Syndrome. Pes planus also is associated with pronation of the feet, which is objectively documented in this case, and is thought to play a major role in the development of Sinus Tarsi Syndrome. Also the constant strain from attempting to supinate a pronated foot often results in chronic anterior and posterior tibialis tendinitis. Thus Pes Planus might best reflect his true clinical condition along with the common secondary manifestations seen in this case.

The NARSUM states that his custom orthotics did not bring him all the way to perpendicular to the ground in regard to neutral calcaneal stance position/resting calcaneal stance position. This finding, along with radiographic evidence, documents objective evidence of marked deformity that is not improved by orthopedic shoes or appliances. This supports a 50% rating. However, the other findings suggest the CI’s condition more nearly approximates the 30% rating. Pain on manipulation and use of the feet is well documented in the NARSUM and VA examinations. No comment on the severity of pain is present in either examination but the non-medical assessment from the CI’s Commander noted that prolonged standing and/or excessive walking caused foot and knee pain with a recurring limp. This along with the medical history reported in the NARSUM and the VA exam supports a finding of accentuated pain with use. The VA Compensation and Pension (C&P) examination noted the pain in the CI’s feet was associated with weakness, stiffness, swelling, and fatigue with rest as well as standing and walking. The CI also had constant pain in the bilateral tibial areas but no history of stress fractures. Physical examination noted poor weight-bearing alignment of the Achilles tendon that could be corrected with manipulation. The NARSUM did note medial pinch callus associated with the hallux limitus but does not document swelling. This type of callus is characteristic of severe pes planus. It occurs as a result of compensation secondary to structural foot deformities. The CI clearly meets the VASRD 10% rating criteria for 5276 Flatfoot, acquired. The NARSUM states that his custom orthotics do not bring him all the way to perpendicular to the ground in regard to neutral calcaneal stance position/resting calcaneal stance position and pain on manipulation and use of the feet is well documented. At the 30% rating level this condition must be severe with objective evidence of marked deformity (pronation, abduction, etc.), pain on manipulation and use accentuated, indication of swelling on use, and characteristic callosities. The NARSUM did note medial pinch callus associated with the hallux limitus but does not document swelling. It also noted posterior tibial tendinitis and anterior tibial tendinitis associated with trying to supinate his foot. The CI also had a hallux valgus with bunion deformity bilaterally as well as a prominent talonavicular joint associated with pronated foot. Interestingly, the VA C&P Examination of 20020530 (2.5 months before separation) does document a history of swelling of the feet as a current symptom but also documented no signs of abnormal weight bearing.

The Board discussed at length the proper coding for this condition. Although the code for pes planus, acquired (5276) does seem to be appropriate in this case, consideration was also given to code 5299-5271, rated analogously for ankle sprain for each ankle individually. The rationale for this was that the separated condition of Sinus Tarsi Syndrome is a painful syndrome involving the ankle area. As such a code reflecting pain in that area might be more consistent with the PEB determination. After extensive deliberation no consensus was reached and the Board considered voting options for both codes. The Board also noted the inconsistencies in the records as to whether the condition existed prior to enlistment. The JDETS Findings and Recommended Disposition Form of 20020418 noted that the condition existed prior to service (EPTS) but no deduction for EPTS was recommended. It also noted that his foot pain started in April 2000. He enlisted in 1997 with his enlistment physical documenting a normal arch with no other findings related to the feet and ankles. After discussion it was determined that there was no basis for a reduction based on EPTS criteria.

The Board determined, by simple majority, that the CI does have an unfitting bilateral condition of the feet, best rated as code 5276, Flat Feet, Acquired, at 30%. The Board deliberated at length the clinical evidence supporting a Moderate verses Severe determination of severity for this condition. A 30% rating requires the pes planus must be severe with objective evidence of marked deformity (pronation, abduction, etc.), pain on manipulation and use accentuated, indication of swelling on use, and characteristic callosities. As described above, all of these criteria were met. The conditions of Sinus Tarsi Syndrome, Tendinitis, Anterior Tibialis and Posterior Tibialis, and Hallux Valgus with Bunion Deformity are all related conditions whose manifestations can be rated within the criteria for code 5276 as noted above. The single voter for dissent recommended an analogous rating, code 5299-5271, at 10 % for each ankle for a combined 20% (with BLF).

Other Conditions in the DES File. Patellofemoral Pain Syndrome, Right Knee; Patellofemoral Pain Syndrome, Left Knee; Right Ankle Sprain; and Left Ankle Sprain. The PEB did not make fitness determinations for these conditions although they were mentioned in the MEB NARSUM. These conditions may have resulted from and/or been exacerbated by the CI’s severe bilateral Pes Planus. However, there is no evidence in the STR that any of these conditions were unfitting at the time of separation from service. None of these conditions prevented the CI from performing the duties required of his rank and 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. After careful consideration of all available information, the Board determined by simple majority that the CI’s condition is most appropriately rated at 30% for 5276 Severe Bilateral Pes Planus, Acquired. The CI’s condition is best characterized as Acquired Pes Planus with secondary conditions of Sinus Tarsi Syndrome; Tendonitis, Anterior Tibialis and Posterior Tibialis; and Hallux Abductovalgus, Bunion Deformity. Severe pronation due to Pes Planus is objectively documented on radiographs and physical examination. This pronation is thought to play a major role in development of Sinus Tarsi Syndrome and the constant strain from attempting to supinate a pronated foot often results in chronic anterior and posterior tibialis tendinitis. The CI had marked deformity (pronation), pain on manipulation and use accentuated, indication of swelling on use, and characteristic callosities. Therefore a 30% rating for this bilateral condition is warranted. The single voter for dissent (who recommended an analogous rating, code 5299-5271, at 10 % for each ankle, for a combined 20% [with BLF]) did not elect to submit a minority opinion.

The Board also considered bilateral Patellofemoral Pain Syndrome and bilateral Ankle Sprain and unanimously determined that none of these conditions were unfitting at the time of separation from service and therefore no disability rating is applied. None of these conditions prevented the CI from performing the duties required of his rank or rating.

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** |
| Pes Planus, Bilateral | 5276 | 30% |
| **COMBINED** | **30%** |

The following documentary evidence was considered:

Exhibit A. DD Form 294, dated 20090928, 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 XXXX, FORMER USMC, XXX XX XXXX

Ref: (a) PDBR ltr of 31 Jan 11

(b) DoDI 6040.44

1. I have reviewed reference (a) pursuant to 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 10 percent) with placement on the Permanent Disability Retired List effective 14 August 2002.

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

Principal Deputy

Assistant Secretary of the Navy

(Manpower & Reserve Affairs)