RECORD OF PROCEEDINGS

PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXXX BRANCH OF SERVICE: Marine Corps

CASE NUMBER: PD0900638 SEPARATION DATE: 20040815

BOARD DATE: 20110429

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

SUMMARY OF CASE: Data extracted from the available evidence of record reflects that this covered individual (CI) was an active duty Sgt/E-5 (0844, Fire Direction Control), medically separated from the Marine Corps in August 2004. The medical basis for separation was degenerative arthritis of the left hip, secondary to hip dysplasia. During his initial enlistment he had no hip complaints. In 2002, the CI began having left hip pain with activity. This progressed until he was unable to run, jump, or stand longer than 15 minutes. X-rays showed significant degenerative changes in the left hip, most likely secondary to Perthes disease or developmental dysplasia of the hip. The CI did not respond adequately to treatment, and was unable to perform within his military occupational specialty (MOS) or participate in a physical fitness test. He was placed on limited duty (LIMDU) and underwent a Medical Evaluation Board (MEB). The left hip condition was addressed in the MEB narrative summary (NARSUM) and forwarded to the Physical Evaluation Board (PEB) as medically unacceptable. No other conditions appeared on the MEB’s submission. The PEB adjudicated the degenerative arthritis of the left hip as the only unfitting condition, VA code 5255, rated at 20%. The CI waived a formal hearing, and was separated with 20% disability using the Veterans Administration Schedule for Rating Disabilities (VASRD) and applicable Navy and DoD regulations.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

CI CONTENTION: The CI states: “The board did not take into consideration the effect my leg length discrepancy has on my knees, ankles, and back.”

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

RATING COMPARISON:

|  |  |
| --- | --- |
| **Service IPEB – Dated 20040519** | **VA (1 mo. Pre/Separation) – All Effective Date 20040816** |
| **Condition** | **Code** | **Rating** | **Condition** | **Code** | **Rating** | **Exam** |
| Degenerative Arthritis of Left Hip Secondary to Hip Dysplasia | 5255 | 20% | Left Hip Avascular Necrosis…  | 5003-5255 | 20% | 20040708 |
| ↓No Additional MEB/PEB Entries↓ | Right Knee PFS | 5099-5024 | 10% | 20040708 |
| Left Knee PFS | 5099-5024 | 10% | 20040708 |
| Left TMJ… | 9999-9905 | 10% | 20040708 |
| 0% x 3/Not Service Connected x 5 | 20040708 |
| **Combined: 20%** | **Combined: 50%** |

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

ANALYSIS SUMMARY:

Left hip condition. As mentioned above, the CI’s left hip complaints began in 2002 and progressively became worse. At the MEB examination on 27 February 2004, hip flexion was limited to 100 degrees. Radiographs showed “significant changes on his acetabular side and his femoral head side, and his joint appear to be non-congruent.” The examiner noted that the CI would probably require surgery in the future and that his condition “interferes with the reasonable performance of his assigned duties.” Restrictions included no running, jumping, prolonged walking, standing, crawling, or deployment. At a pre-discharge VA Compensation and Pension (C&P) examination on 8 July 2004 (five weeks prior to separation) the CI was noted to have an antalgic gait, a 1.5 cm leg length discrepancy, and some loss of hip motion, additionally limited by pain (but not fatigue, weakness, endurance or incoordination). Two goniometric range-of-motion (ROM) evaluations were in evidence, which the Board weighed in arriving at its rating recommendation. These two ROM exams are summarized below.

|  |  |
| --- | --- |
|  | Separation Date: 20040815 |
| Goniometric ROM –Left Hip  | MEB NARSUM – 20040227 | VA C&P exam –20040708 |
| Flexion (125⁰ is normal) | 100⁰ | 0⁰-115⁰, pain at 90⁰ |
| Extension (0⁰ is normal)  | 0⁰ | 0⁰-15⁰, pain at 15⁰ |
| Abduction (45⁰ is normal)  | Not Measured | 0⁰-20⁰, pain at 0⁰ |
| Adduction (0⁰ is normal) | Not Measured | 0⁰-10⁰, pain at 10⁰ |
| Internal Rotation  | Not Measured | 0⁰-30⁰, pain at 0⁰ |
| External Rotation | Not Measured | 0⁰-10⁰, pain at 0⁰ |

The Physical Disability Board of Review (PDBR) examined all evidentiary information available. The Board determined that malformation of the femur is analogous to malunion of the femur, so VA code 5255 would be an appropriate diagnostic code in this case. The painful motion, loss of motion, and loss of function documented above represents a moderate disability of the left hip. All evidence considered, the Board unanimously recommends a 20% disability rating for the left hip condition (coded 5255, IAW VASRD §4.71a).

Other Contended Conditions. The CI contends that his leg length discrepancy had an effect on his knees, ankles, and back. All of these conditions were reviewed by the action officer and considered by the Board. In the Disability Evaluation System (DES) file, there was no clearly documented evidence that any of these conditions significantly interfered with performance of military duties. There was ample documentation of a 1.5cm leg length discrepancy (secondary to the left hip condition). The CI was appropriately treated with a heel lift. There was no limitation of duty because of his leg length discrepancy, and it was not mentioned in the Commander’s statement. On the DD Form 2807-1 (dated 2 April 2004), the CI denies knee trouble (block 12i), foot trouble (12f) or back problems (block 12c), and does not mention any of these conditions in block 29. There was no documentation of knee pain, ankle pain, or back pain elsewhere in the DES. 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.

Remaining Conditions. Sinusitis, urolithiasis, right shoulder pain, and several other conditions were identified in the DES file. None of these conditions were clinically significant during the MEB/PEB period, and none were implicated in the commander’s statement. These conditions were reviewed by the action officer and considered by the Board. It was determined that none could be argued as unfitting and subject to separation rating. Additionally, temporo-mandibular joint (TMJ) syndrome, hearing loss and other conditions were noted in the VA rating decision proximal to separation, but were not documented in the DES file. As mentioned above, 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.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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 left hip condition and IAW VASRD §4.71a, the Board unanimously recommends no change in the PEB adjudication.

In the matter of the leg length discrepancy, knee pain, ankle pain, back pain, sinusitis, urolithiasis, right shoulder pain, 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.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

RECOMMENDATION: The Board therefore unanimously recommends that there be no re-characterization of the CI’s disability and separation determination.

|  |  |  |
| --- | --- | --- |
| **UNFITTING CONDITION** | **VASRD CODE** | **RATING** |
| Degenerative Arthritis of Left Hip, Secondary to Hip Dysplasia | 5255 | 20% |
| **COMBINED** | **20%** |

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

The following documentary evidence was considered:

Exhibit A. DD Form 294, dated 20091021, w/atchs.

Exhibit B. Service Treatment Record.

Exhibit C. Department of Veterans' Affairs Treatment Record.

 Deputy Director

 Physical Disability Board of Review

MEMORANDUM FOR DIRECTOR, SECRETARY OF THE NAVY COUNCIL OF REVIEW

 BOARDS

Subj: PHYSICAL DISABILITY BOARD OF REVIEW (PDBR) RECOMMENDATION

 ICO XXXXX, FORMER USMC

Ref: (a) DoDI 6040.44

 (b) PDBR ltr dtd 13 May 11

 I have reviewed the subject case pursuant to reference (a) and, for the reasons set forth in reference (b), approve the recommendation of the PDBR Mr. XXXXX’s records not be corrected to reflect a change in either his characterization of separation or in the disability rating previously assigned by the Department of the Navy’s Physical Evaluation Board.

 Assistant General Counsel

 (Manpower & Reserve Affairs)