RECORD OF PROCEEDINGS

PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXX BRANCH OF SERVICE: MARINE CORPS

CASE NUMBER: PD0900660 BOARD DATE: 20110204

SEPARATION DATE: 20080630

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

SUMMARY OF CASE: Data extracted from the available evidence of record reflects that this covered individual (CI), Corporal/E4 (MOS 5811 / Military Police), was medically separated from the Marine Corps on 30 Jun 08. In March 2005 the CI injured her right knee while running on a treadmill. She was diagnosed with a stress fracture and tendonitis and placed on limited duty (LIMDU). The CI was diagnosed with right medial meniscal tear and underwent endoscopic repairs in May 2006 and June 2007 with debridement of painful plica with sinovitis. In spite of nonsteroidal anti-inflammatory medications, physical therapy, and steroid injections, the CI had continuous periods of limited duty (LIMDU), and was then referred to the Medical Evaluation Board (MEB). The right knee conditions were addressed in the narrative summary (NARSUM) and the CI was referred to the Physical Evaluation Board (PEB) with three right knee diagnoses on the NAVMED 6100/1. Additional conditions supported in the Disability Evaluation System (DES) packet are discussed below, but were not forwarded for PEB adjudication. The PEB adjudicated “Category I: The overall effect of the following diagnoses contribute to the unfitting finding: 1. Status post surgical resection and debridement of right knee painful plica; 2. Painful right knee; and 3. Status post surgical repair of right knee medial meniscal tear,” without a VASRD disability code and with a single rating of 0%. The CI made no appeals and was therefore separated with a 0% disability rating.

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

CI CONTENTION: The CI states: “There have been changes to the rating system and I feel I should be rated higher than what I have received.”

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

RATING COMPARISON:

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| **Service IPEB – Dated 20080401** | | | **VA (3 Mo. After Separation) – All Effective 20080701** | | | | |
| **Condition** | **Code** | **Rating** | **Condition** | | **Code** | **Rating** | **Exam** |
| Surgical Resection & Debride-ment of R. Knee Painful Plica | - | 0% | R. Knee Medial Meniscus Tear and Patellofemoral Plica Syndrome | | 5257 | 10% | 20080915 |
| Painful R. Knee | - |
| S/P Surgical Repair of R. Knee Medial Meniscal Tear | - |
| ↓No Additional MEB Entries↓ | | | Irritable Bowel Syndrome | | 7319 | 30% | 20080915 |
| Sternal Pain s/p Fx … | 5299-5297 | | NSC |  |
| Thoracolumbar … | 5237-5010 | | 10% | 20080915 |
| Herpes Simplex | 7899-7800 | | 10% | 20080915 |
| Allergic Urticaria | | 7825 | 10% | 20080915 |
| Lipomas … legs | 7899-7819 | | 0% | 20080915 |
| Chronic Right Ankle Sprain | | 5271 | 0% | 20080915 |
| Myofascial pain w/dysfn … | | 5021 | 10% | 20090218 |
| **TOTAL Combined: 0%** | | | **TOTAL Combined (*Includes Non-PEB Conditions*): 60%** | | | | |

ANALYSIS SUMMARY:

Right Lower Extremity: The CI injured her right knee in March 2005 and was initially diagnosed with stress fracture and tendonitis. Pain was located in the medial aspect of the right knee, described as worse with sitting, driving, and standing. There were subjective reports of episodic swelling, minimal painful clicking, locking in extension. Objective examinations did not show effusions, instability, limitation of motion. She was treated with LIMDU, nonsteroidal anti-inflammatory medications, and physical therapy (PT) without improvement (April – August 2005). Right Knee Medial Meniscal Tear was diagnosed in December 2005, and in May 2006, arthroscopic surgery to remove the meniscus was performed with resolution of the medial knee pain. However, the CI developed anterior knee pain, leading to the diagnosis of both bursitis and chondromalatia of the patella. Corticosteroid injections, LIMDU, and PT were prescribed throughout 2006. In April 2007, an additional arthroscopy was performed for debridement of a medial patellofemoral plica associated with synovitis, which did not relieve her symptoms. In 2008 Hyalgan injections were given without restoration of the CI to military exercise performance standards. Because of her knee injury the CI did not work in her selected MOS 5811/Military Police after completion of her initial entry training (IET). She was reassigned to the position of Traffic Clerk. Her medical appointments required 5 hours per week of duty absence. The CI had a total of 9 LIMDUs for her right knee. The Commander stated, “Corporal E has been a stellar performer and truly is an outstanding Marine. However, due to her current medical situation, she is unable to perform certain requirements in the 5811 MOS. Unfortunately, I recommend that she be medically discharged.” The PEB determined that the CI was unable to maintain her physical readiness requirements consistent with being an active duty Marine Corps Military Police (MP).

There are two knee exams proximate to military discharge (see table).

|  |  |  |
| --- | --- | --- |
| Right Knee | Separation Date: 20080630 | |
| Goniometric ROM | MEB NARSUM- 20080212 | VA C&P - 20080915 |
| Flexion 0-140⁰ normal | 0⁰-130⁰ | 0⁰-130⁰ |
| Extension 0⁰ normal | 0⁰ | N/A |
| Comments | Tender (painful motion not addressed) | Minimal crepitus; Patellar apprehension test is positive; ROM not painful; Repetitive movements are normal. |
| §4.71a Rating | 0%-10% | 10% |

On the NARSUM it was noted that the CI had a limited right knee range of motion of 0⁰-130⁰ with tenderness to palpation along the medial patellofemoral retinaculum. The knee was otherwise stable without effusion or infection. Painful motion was not mentioned for or against. The VA Exam of 15 Sep 08, showed crepitus and positive patellar apprehension test. The diagnosis of chondromalacia of the patella in the treatment record. The CI had documented surgery of her meniscus and symptoms of tenderness and medial joint pain. The right knee therefore meets the 10% rating criteria for 5259 Cartilage, semilunar, removal of symptomatic. The Board deliberated if the knee crepitus and patellar apprehension met the §4.59 citeria for a minimum 10% rating in addition to the 5259 rating. The VA combined 10% rating using 5257 for the knee, and the provisions of §4.14 (Avoidance of pyramiding) were discussed in depth. After due deliberation, considering all of the evidence and mindful of VASRD §4.3 (reasonable doubt) and §4.59, the Board recommends an additional separation rating of 10% under 5099-5003 for the knee condition, along with 10% under 5259 for a combined 20% rating of the knee.

Other conditions in the Disability Evaluation System (DES- IBS/constipation, Fractured Sternum, and Back Pain): Irritable Bowel Syndrome [IBS]/Constipation is mentioned in the NARSUM and the CI was on medication for control. The CI fractured her sternum in December 2005 in a motor vehicle accident with an initial 30 day LIMDU period. While this was noted on her MEB physical, there are no entries in the medical record complaining of symptoms after April 2006 (2 years prior to separation) and a bone scan in May 2006 was essentially normal including the sternum. Back pain was noted as episodic and mild. There was no evidence of any of these conditions in the NMA statement, or any noted interference with duty proximate to military discharge. All evidence considered, there is not reasonable doubt in the CI’s favor supporting addition of IBS/constipation, Fractured Sternum, or Back Pain as unfitting conditions for separation rating.

Other Conditions: The VA identified Herpes simplex, allergic urticaria, chronic right ankle sprain, subcutaneous lipomas in the lower extremities, and myofascial pain with dysfunction claimed as teeth grinding with bone loss as service connected. The Board does not have the authority under DoDI 6040.44 to render fitness or rating recommendations for any conditions not considered in the DES. These conditions, and any other contended conditions not associated with the recommendations already rendered by the Board, remain eligible for consideration by the Board for Corrections of Naval Records (BCNR). The Board, therefore, has no reasonable basis for recommending any additional unfitting conditions for separation 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. In the matter of the right knee conditions, the Board unanimously recommends that the knee be rated for two separate unfitting conditions: the Board unanimously recommends Status post right Knee Medial Meniscal Tear, surgically repaired coded 5259 and rated 10%; and, the Board recommends, by a 2:1 vote, that Condromalacia of The Patella Right Knee be coded 5099-5003 and rated 10%; both IAW VASRD §4.71a. The single voter for dissent (who recommended 5099-5003 at 0%) did not elected to submit a minotity opinion. With respect to the Irritable Bowel Syndrome, history of sternal fracture, and lumbar 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 recommends that the CI’s prior determination be modified as follows, effective as of the date of her medical separation.

|  |  |  |
| --- | --- | --- |
| **UNFITTING CONDITION** | **VASRD CODE** | **RATING** |
| Right Knee Cartilage, Semilunar, removal of, Symptomatic | 5259 | 10% |
| Right Knee Chondromalacia Patella with Bursitis | 5099-5003 | 10% |
| **COMBINED** | **20%** |

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

The following documentary evidence was considered:

Exhibit A. DD Form 294, dated 20091109, 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 XXXXX, FORMER USMC, XXX XX XXXX

Ref: (a) DoDI 6040.44

(b) PDBR ltr dtd 14 Feb 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 20 percent (increased from 0 percent) effective June 30, 2008.

3. Please ensure all necessary actions are taken to implement this decision and the subject member is notified once those actions are completed.

Principal Deputy

Assistant Secretary of the Navy

(Manpower & Reserve Affairs)