RECORD OF PROCEEDINGS

PHYSICAL DISABILITY BOARD OF REVIEW

NAME: BRANCH OF SERVICE: AIR FORCE

CASE NUMBER: PD0900689 SEPARATION DATE: 20041227

BOARD DATE: 20110215

SUMMARY OF CASE: Data extracted from the available evidence of record reflects that this covered individual (CI) was an active duty TSgt (2A371, Avionics Systems Craftsman) medically separated from the Air Force in December 2004 after 13 years of active duty service. The medical basis for the separation was rheumatoid arthritis. The CI sought care for joint pain diagnosed as rheumatoid arthritis in October 2002. Although treatment provided good control of her condition, she did not respond adequately to perform within her Air Force Specialty and was issued a permanent P-4 profile. She underwent a Medical Evaluation Board (MEB) and was referred to an Informal Physical Evaluation Board (IPEB). Rheumatoid arthritis was addressed in the narrative summary (NARSUM) and forwarded to the Physical Evaluation Board (PEB) as medically unacceptable IAW AFI 48-123. Two other conditions were forwarded as medically acceptable IAW AFI 48-123. No other conditions appeared on the MEB’s submission. Other conditions included in the NARSUM and Disability Evaluation System (DES) packet will be discussed below. The IPEB adjudicated the rheumatoid arthritis condition, rated 20%; with application of the DoD and VA Schedule for Rating Disabilities (VASRD) guidelines. The CI made one appeal to the Formal PEB (FPEB) for return to duty; however, was found unfit and medically separated with a 20% disability rating.

CI CONTENTION: She elaborates no specific contentions but lists all of her VA conditions and ratings as per the rating chart below. A contention for their inclusion in the separation rating is therefore implied.

RATING COMPARISON:

|  |  |
| --- | --- |
| **FPEB – 20041020** | **VA (3-11 Mo. after Separation)** |
| **Condition** | **Code** | **Rating** | **Condition** | **Code** | **Rating** | **Exam** | **Effective** |
| Rheumatoid Arthritis (RA) | 5002 | 20% | RA … Hands & Wrists\* | 5002 | 0% | 20050407 | 20041228 |
| Left Wrist RA … | 5002-5010 | 10% | 20060523 | 20050707 |
| Right Wrist RA … | 5002-5010 | 10% | 20060523 | 20050707 |
| Bilateral Hands RA … | 5002-5010 | 10% | 20060523 | 20050707 |
| History of Tobacco Abuse | CAT III | No Corresponding VA Entry |
| Over Max Allowable Weight | CAT III | No Corresponding VA Entry |
| ↓No Additional ME B/PEB Entries ↓ | Allergic Rhinitis … | 6514 | 10% | 20050407 | 20041228 |
| Anxiety Disorder … | 9413 | 10% | 20050407 | 20041228 |
| Other X 5 / Not Service Connected X 2 |
| **TOTAL Combined: 20%** | **TOTAL Combined: 20% effective 20041228** **40% effective 20050707** |

\* 5002 at 0% changed to multiple 5002-5010 codes at 10% each; effective 20050707

ANALYSIS SUMMARY: The Military Services, by law, can only rate and compensate for those conditions that were found unfitting for continued military service based on the severity of the condition at the time of separation and not based on future possible worsening. The VA, however, can rate and compensate all service connected conditions without regard to their impact on performance of military duties. The VA can also increase or decrease ratings based on the changing severity of each condition over time. The Board’s role is confined to the review of medical records and all evidence at hand to assess the fairness of PEB rating determinations compared to VASRD standards, as well as the fairness of PEB fitness adjudications. The Board notes the current VA ratings listed by the CI for all of her service connected conditions, but must emphasize that its recommendations are premised on severity at the time of separation. The VA ratings which it considers in that regard are those rendered most proximate to separation. The CI’s history of tobacco abuse and over max allowable weight conditions are not considered physical disabilities and are not ratable or compensable.

Rheumatoid Arthritis: The CI was diagnosed with rheumatoid arthritis involving elbows, wrists, and hands in October 2002. Her primary physician initiated treatment and referred her to a rheumatologist for continuing specialty care. At the time of the MEB NARSUM, six months before separation, she had experienced “remarkable symptom relief” on the treatment prescribed by her rheumatologist, but “not quite remission.” Examination of joints demonstrated no swelling, tenderness or loss of range of motion. There was no evidence of systemic disease by history and physical examination or laboratory testing. The examiner noted that she had been reassigned to an administrative job and had been “fully functional in this capacity.” The Commander’s letter dated 30 June 2004, reported that although she was not working in her primary job due to her medical condition, it did “not limit her ability to satisfy duty requirements in her current position outside her primary AFSC.” Her Commander noted that she “has not missed work due to her medical condition” and was motivated to continue active service in a job that matched her profile. He recommended retention and rated her duty performance as a Plans and Programs Manager with the highest possible ratings in her performance report. A rheumatology clinic medical record entry also six months prior to separation recorded “perhaps mild activity” with subtle joint swelling without loss of range of motion. During her appeal to the formal PEB, the CI requested return to duty. She testified her pain averaged three on a scale of one-to-ten and manages the activities of daily living with some limitations. The CI underwent a VA Compensation and Pension (C&P) examination less than four months after separation. The C&P examiner recorded the CI’s report that with medication she had “almost no symptomatology except occasional pain” in elbows, hands and wrists, and “has no pain at present and has not for the past short period of time”. There were no systemic symptoms. On examination the joints were normal without swelling or tenderness range of motion of all joints was normal, without pain on motion. Strength was good and there was no change in the examination with repetitive motion. There was evidence of past flares of the rheumatoid arthritis with changes in treatment; however, significant exacerbations were only one or two per year. The CI did not have any systemic or non-joint manifestations of Rheumatoid Arthritis and did not have “definite impairment of health objectively supported by examination findings.” With regard to rating the CI’s rheumatoid arthritis at the time of separation, the Board concluded that criteria for a higher rating than 20% under 5002, Rheumatoid Arthritis, were not met (“incapacitating exacerbations occurring three or more times a year"). The Board considered the CI’s implied contention that her rheumatoid arthritis should have been rated based on residuals of the specific joints involved as in the 2006 exam and VA Rating Decision. That VA exam was considered and adjudged to be post-separation worsening of the CI’s condition. The Board concluded that the preponderance of the evidence did not support rating by individual joints or groups of joints at the time of separation. All evidence considered, there is not reasonable doubt in the CI’s favor supporting a change from the PEB’s 20% rating decision for the rheumatoid arthritis condition.

Other Contended Conditions: The CI received service connected ratings for anxiety disorder Not Otherwise Specified with depression features and allergic rhinitis with residuals. The NARSUM and service records document a history of anxiety and dysphoria, particularly when she was initially diagnosed with rheumatoid arthritis and was simultaneously experiencing marital problems. Regarding this history, the NARSUM recorded “no active issues now” and the Commander’s letter and performance report reflected excellent duty performance. Allergic rhinitis was also documented in the NARSUM and records reflect seasonal symptoms treated with antihistamines. Neither of these conditions carried attached profiles or was implicated in the commander’s statement. All evidence considered, there is not reasonable doubt in the CI’s favor supporting addition of anxiety disorder or allergic rhinitis conditions as unfitting conditions for separation rating.

Remaining Conditions: Several relatively minor medical conditions were identified in the MEB history and physical. None of these conditions carried attached profiles and none were implicated in the Commander’s statement. These conditions were reviewed by the action officer and considered by the Board. Although several of these conditions were service connected or awarded non-compensable ratings by the VA, it was determined that none could be argued as unfitting and subject to separation rating. 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. As discussed above, PEB reliance on DoDI 1332.39 and VASRD for rating rheumatoid arthritis was operant in this case and the condition was adjudicated independently of that instruction by the Board. In the matter of the rheumatoid arthritis condition and IAW VASRD §4.71a, the Board unanimously recommends no change in the PEB adjudication of 20% coded 5002. In the matter of the anxiety disorder and allergic rhinitis 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.

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

The following documentary evidence was considered:

Exhibit A. DD Form 294, dated 20090414, 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-2009-00689.

 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 appropriate. Accordingly, the Board recommended no re-characterization or modification 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 and their conclusion that re-characterization of your separation is not warranted. Accordingly, I accept their recommendation that your application be denied.

 Sincerely

Director

Air Force Review Boards Agency

Attachment:

Record of Proceedings

cc:

SAF/MRBR