RECORD OF PROCEEDINGS

PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXX BRANCH OF SERVICE: MARINE CORPS

CASE NUMBER: PD200900692 SEPARATION DATE: 20050415

BOARD DATE: 20110421

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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 (0659, Data Chief), medically separated from the Marine Corps in 2005. The medical basis for the separation was bilateral patellofemoral osteoarthritis. The CI presented for care of pain in both knees in February 2003, diagnosed as patellofemoral syndrome with patellofemoral osteoarthritis. She did not respond adequately to treatment and was unable to participate in the physical fitness test or perform strenuous military duties involving running, climbing, or heavy lifting. She was placed on limited duty and underwent a Medical Evaluation Board (MEB). Bilateral patellofemoral osteoarthritis and bilateral patellar tendonitis were forwarded to the Physical Evaluation Board (PEB) as medically unacceptable IAW SECNAVINST 1850.4E. The PEB adjudicated the bilateral patellofemoral osteoarthritis condition as unfitting, rated 10% each; with application of the SECNAVINST 1850.4E and DoDI 1332.39. Bilateral patellar tendonitis condition was a related secondary diagnosis and not separately ratable. The CI made no appeals, and was medically separated with a 20% combined disability rating.

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CI CONTENTION: She elaborates no specific contentions regarding rating or coding and mentions no additionally contended conditions.

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RATING COMPARISON:

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| --- | --- | --- | --- | --- | --- | --- | --- |
| **Service IPEB – Dated 20050207** | | | | **VA (9 Mos. After Separation) – All Effective 20050416** | | | |
| **Condition** | | **Code** | **Rating** | **Condition** | **Code** | **Rating** | **Exam** |
| Bilateral Knee Patellofemoral Osteoarthritis | Right | 5099-5003 | 10% | Right Knee PFS | 5099-5024 | 10% | 20060126 |
| Left | 5099-5003 | 10% | No corresponding VA entry | | | |
| Bilateral Patellar Tendinitis | | Not unfitting | | No corresponding VA entry | | | |
| ↓No Additional MEB/PEB Entries↓ | | | | 0% x 3 / Not Service Connected x 4 | | | 20060126 |
| **Combined: 20%** | | | | **Combined: 10%** | | | |

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ANALYSIS SUMMARY:

Bilateral Patellofemoral Osteoarthritis/Bilateral Patellar Tendonitis. CI experienced duty limiting bilateral anterior knee pain for over two years diagnosed as patellofemoral osteoarthritis based on symptoms and examination as well as magnetic resonance imaging (MRI) findings of the most symptomatic right knee. The December 2004 narrative summary (NARSUM) reported tenderness of the superior patellar tendons diagnosed as tendonitis related to the primary diagnosis. There was one goniometric range of motion (ROM) evaluation and knee examination four months prior to separation. In addition, the compensation and pension (C&P) examination performed nine months after separation was considered by the Board. The ROM findings for the two exams are summarized in the following chart.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Goniometric ROM - Knees | MEB ~ 4 Mo. Pre-Sep | | VA C&P ~ 9 Mo. After-Sep | |
|  | R | L | R | L |
| Flexion (140⁰ normal) | 120⁰ | 120⁰ | 140⁰ | 140⁰ |
| Extension (0⁰ normal) | 0⁰ | 0⁰ | 0⁰ | 0⁰ |
| Comments | Painful motion not indicated  Degenerative change on MRI (R)  Patellofemoral crepitus  Pain with use | | Pain at end range of motion; tenderness |  |
| §4.71a Rating | 10% | 10% | 10% | 0% (No VA rating) |

The ROMs were in the 0% range including with application of §4.59 for painful motion. Neither exam documented any mechanical instability or locking of the joint to warrant rating under diagnostic codes 5257 or 5258 (and the MRI further documented no abnormality of ligament or meniscus that would cause those symptoms). The PEB and VA chose different coding options for the condition, both of which were appropriate for the CI’s diagnoses, and both of which led to equivalent disability ratings for the right knee. While the VA rated only the most symptomatic right knee (apparently the CI only claimed for the right knee), the PEB rated both knees. The PEB rated the bilateral knee condition IAW the VA Schedule for Rating Disabilities (VASRD) §4.71a, coded 5003 for degenerative arthritis consistent with the primary pathology supported by clinical and radiographic evidence. The VA rated the knee analogously to tenosynovitis (5024) in the absence of a compensable ROM impairment or evidence of instability. Both of these approaches allowed for a compensable rating without relying on the joint codes based on ROM impairment. The Board agreed that there was not a more favorable coding choice than that applied by the PEB. All evidence considered, there is not reasonable doubt in the CI’s favor supporting a change from the PEB’s rating decision for the knee condition.

Remaining Conditions. The CI indicated a history of depression in the MEB history and physical examination. In October 2003, the CI presented to the clinic with symptoms of depression in the setting of separation from her spouse, stress of single parenthood, and work stress. The provider concluded the CI had mild depression related to overwhelming stress, prescribed medication, and referred the CI to mental health. According to a VA C&P examination in January 2006, the CI did not follow through on that referral to mental health, but the medication prescribed was helpful. She took it for two or three months and stopped it because she felt she did not need it anymore. The condition was within the range of normal responses to such stressors experienced by many people, and was transient, significantly improving over a few months. The commander’s assessment in October 2004 stated that the CI was working in her specialty and had good potential for continued service. There was no evidence the condition significantly interfered with performance of duties, and the brief period of clinically significant symptoms would not have formed the basis for referral into the DES. Other conditions identified in the Disability Evaluation System file were cold thyroid nodule, alopecia areata, deviated nasal septum (status post surgery 1996), mild high frequency hearing loss, history of abnormal PAP smear, fractured sacrum (1996, healed), bronchitis, sinusitis, eczema and rib pain. Several additional non-acute conditions or medical complaints were also documented. None of these conditions (including depression) were significantly clinically active during the MEB period, none were the bases for limited duty, and none were implicated in the commander’s assessment. 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. No other conditions were service connected with a compensable rating by the VA within twelve months of separation or contended by the CI. The Board therefore has no reasonable basis for recommending any additional unfitting conditions 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. In the matter of the bilateral knee condition and IAW VASRD §4.71a, the Board unanimously recommends no change in the PEB adjudication. In the matter of 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 therefore recommends that there be no recharacterization of the CI’s disability and separation determination.

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| **UNFITTING CONDITION** | | **VASRD CODE** | **RATING** |
| Bilateral Knee Patellofemoral Osteoarthritis | Right | 5099-5003 | 10% |
| Left | 5099-5003 | 10% |
| **COMBINED (incorporating BLF)** | | **20%** |

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The following documentary evidence was considered:

Exhibit A. DD Form 294, dated 20091123, 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 XXXX, FORMER USMC

Ref: (a) DoDI 6040.44

(b) PDBR ltr dtd 3 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 Physical Disability Board of Review Ms. XXXX’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)