RECORD OF PROCEEDINGS

PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXX BRANCH OF SERVICE: marine corps

CASE NUMBER: PD20100006 SEPARATION DATE: 20060831

BOARD DATE: 20110224

SUMMARY OF CASE: Data extracted from the available evidence of record reflects that this covered individual (CI) was an active duty Cpl (2311, Small Arms Repairer/Technician) medically separated from the Marine Corps in 2006 after nearly three years of service. The medical basis for the separation was right inguinal neuralgia. The CI developed severe right groin pain due to an incarcerated right femoral hernia. He underwent surgical repair and remained on limited duty (LIMDU) for the remainder of his time in service. A large reactive lymph node was also removed and was negative on pathologic examination. One to two weeks after surgery, the CI developed chronic right groin pain diagnosed as inguinal neuralgia that prevented him from performing his duties. Nerve block confirmed the diagnosis and resulted in temporary relief. He was also treated with multiple analgesic medications. He underwent radiofrequency ablation of right illioinguinal nerve and genitofemoral nerve with four days of pain relief. The pain again increased to pre-ablation levels. The CI was placed on alternate duty due to his inability to work in his military occupational specialty (MOS) and to perform a PFT. While on LIMDU he was treated with multiple medications, including narcotics, which the non-medical assessment (NMA) said caused additional limitations. Consequently, the CI underwent a Medical Evaluation Board (MEB). Right inguinal neuralgia, chronic right groin pain, Status post radiofrequency ablation of right illioinguinal nerve and genitofemoral nerve, status post urgent right femoral hernia repair were addressed in the narrative summary (NARSUM) and forwarded to the Physical Evaluation Board (PEB). The informal PEB adjudicated the right inguinal neuralgia as the only unfitting condition, with a 0% disability rating. The CI made no appeals, and was medically separated with a 0% disability rating.

CI CONTENTION: “I am unemployable and have been deemed to be by Social Security since September 2005 because I am unable to engage in substantial gainful activity because of my right groin pain from which was caused by a groin injury that I have received in the Marine Corps while working. It is stated in the most recent of decisions that individual unemployability remains denied because the evidence does not show that the claimant is unable to secure or follow a substantially gain/ill occupation as a result of service-connected disabilities. I have right groin pain due to the Navy doctor messing up nerves in my right groin trying to fix a hernia I got while working in a ammo supply point in the Marine Corps. There is no way that my pain is not from the injury received in the Marine Corps and that is the reason I cannot work. It is stated by doctors from the VA I am not able to work all it takes is a little common sense to plainly see that I am 100% unemployable and have been for some time due to nothing but my hernia repair and lymphnoid removal back in September 28th of 2005. I am attaching my VA decision in the envelope with this form and I will highlight some lines. Now when you read what I highlight which was written by the VA board you will look at it and see it negates itself and there is in no way that I am not 100% unemployable (unable to obtain substantially gainful employment) because of my right groin pain that I can only have gotten from that hernia (while working in the ammo supply point), followed by a lymphnoid removal and hernia repair (done by a naval doctor), which brings us to this horrible 20% decision rating I currently have from the VA stating "that I am unemployable however it’s not from service connected disability." Which brings us back to I can’t work, have pain 100% of the time in my right groin, I know and you know it’s from what happened in the Marine Corps, please give me the unemployable rating I deserve.”

RATING COMPARISON:

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **Service IPEB – Dated 20060614** | | | | | **VA (4 Mo. after Separation) – All Effective 20060901** | | | |
| **Condition** | | **Code** | | **Rating** | **Condition** | **Code** | **Rating** | **Exam** |
| Right Inguinal Neuralgia | | 8730 | | 0% | IlIio-inguinal nerve neuropathy of Right Inguinal | 8530 | 10% | 20061229 |
|  | S/P Radiofrequency ablation of R ilioinguinal & Genitofemoral Nerves | | Category II | | No corresponding VA Conditions | | | |
|  | Chronic R Groin Pain\* | |
|  | S/P Urgent R Femoral Hernia Repair | |
| ↓No Additional MEB/PEB Entries↓ | | | | | Right Inguinal Herniorrhaphy Scar | 7804 | 10% | 20061229 |
| **TOTAL Combined: 0%** | | | | | **TOTAL Combined (*Includes Non-PEB Conditions*): 20%** | | | |

\*The MEB listed chronic right foot pain; likely an error, but discussed below.

ANALYSIS SUMMARY: The Board acknowledges the sentiment expressed in the CI’s application regarding the significant impact that his service-incurred condition has had on his current earning ability and quality of life. It is a fact, however, that the Disability Evaluation System (DES) has neither the role nor the authority to compensate service members for un-employability. This role and authority is granted by Congress to the Veterans Administration. The Board evaluates VA evidence proximal to separation in arriving at its recommendations, but its authority resides in evaluating the fairness of DES fitness decisions and rating determinations for disability at the time of separation.

Right Inguinal Neuralgia (Including Chronic Right Groin Pain). The CI was separated from service due to the unfitting condition of right inguinal neuralgia which occurred status post right incarcerated femoral hernia reduction and repair with removal of one enlarged lymph node. The CI was treated with medication, nerve blocks, and radiofrequency ablation of the right ilioingunal nerve and genitofemoral nerve. There was no improvement, and the CI had chronic groin pain which precluded his continuing to work within his MOS and prevented him from deploying, participating in PT and taking a PFT. The PEB adjudicated the groin condition as unfitting coded as 8730 neuralgia of the iliofemoral nerve with a 0% rating. Under the VA Schedule for Rating Disabilities (VASRD) code of 8730 the maximum rating is 0% for mild to moderate “paralysis” of that nerve IAW the limitations of §4.124 neuralgia. The CI had severe pain, at times excruciating, that required narcotics and several nerve ablation procedures and still had no relief. The VA exam documented similar findings with different rating schemes. Given the description of the CI’s pain and disability, with consideration of VASRD 4.124a, the condition is, therefore, better aligned to coding under neuritis of the Ilio-inguinal nerve which permits coding to the higher level. IAW §4.123 neuritis, the CI would rate as 8630 at the “severe” level which is 10%. After due deliberation, considering the totality of the evidence and mindful of VASRD §4.3 (reasonable doubt), the Board recommends the coding and rating be modified to be coded as 8630 with the maximal disability rating of 10% for the right groin condition IAW VASRD§4.124a.

Status Post Radiofrequency Ablation of Right Ilioinguinal Nerve and Genitofemoral Nerve. Being status post radiofrequency ablation of the right ilioingunal nerve and genitofemoral nerve is neither a ratable condition nor a disability under the VASRD. It is a procedure performed on the CI in an effort to alleviate the unfitting condition which is the right inguinal neuralgia. All evidence considered, there is not reasonable doubt in the CI’s favor supporting recharacterization of the PEB fitness adjudication of not separately unfitting from the neuropathy for being status post radiofrequency ablation of the right ilioinguinal nerve and genitofemoral nerve.

Status Post Urgent Right Femoral Hernia Repair. The right femoral hernia was repaired in September 2005. The CI was doing well and healing post-operatively until he developed nerve pain one to two weeks after surgery. The service treatment record indicates that there was no hernia recurrence prior to separation. The original VA Rating Decision (VARD) indicates that the hernia did recur after separation and was again repaired. Under the VASRD there is no disability due to a repaired hernia. All evidence considered there is not reasonable doubt in the CI’s favor supporting recharacterization of the PEB fitness adjudication of not separately unfitting from the neuropathy for being status post urgent right femoral hernia repair.

Inguinal Scar: In the service treatment record surgical examination on 4 November 2005, the surgeon notes that the incision is not tender, but that there is hyperesthesia of the inguinal region. The surgical examination of 7 February 2006 also indicates a lack of tenderness in the scar. In the VA Compensation and Pension Examination (C&P) 29 December 2006, the examination of the scar revealed that it was four cm in length, with no adherence to the skin or underlying tissue, no elevation or depression of the scar, no inflammation, no edema, no keloid formation, normal color, no induration or inflexibility of the skin in the area of the scar and no limitation of motion caused by the scar. The examiner also said that the scar was stable. There is no evidence in the DES that the scar was unstable or tender; however, the original VARD stated that there is pain on scar examination. This does not concur with the VA examination. Although the decision states that a 10% rating was given for a painful scar, the condition was coded as eczema without using an analogous code 7806. There is no evidence in the service treatment record for eczema. The VARD later changed the code to 7804 which is a scar code. Under 7804, a scar can be rated as a disability if it is unstable or painful. Since the examinations indicate that the scar is stable, the only way to rate the scar is if it is painful. The examinations indicate that the scar is not tender; however, the inguinal area is painful due to the neuropathy. The scar, if made painful by the neuralgia, would not be separately unfitting from the neuralgia because it is the same pain. The service treatment record does indicate that the CI was required to wear loose clothing due to his inguinal pain. As with the pain, this duty limitation cannot be separately tied to the scar. By firm precedent, the Board does not recommend separation rating for scars unless their presence imposes a direct limitation on fitness. There is no argument favoring any link of this condition to fitness for its consideration by the Board as subject to additional Service rating.

Other Condtions. The MEB coversheet lists chronic right foot pain; however, a review of the DES reveals nothing else to indicate chronic right foot pain. The service treatment record contains an entry history and physical examination revealing bilateral pes planus but the MEB physical indicated normal arches. There is no indication in the DES of any tie of any chronic foot condition to fitness proximate to separation from active duty service (no LIMDU or mention in the NMA). No other conditions were noted in the NARSUM, identified by the CI on the MEB physical, or found elsewhere in the DES file. No other conditions were contended in the application or identified by the VA within 12 months of separation. The Board, therefore, has no basis for consideration of any other conditions eligible for additional rating at separation.

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. The Board did not surmise from the record or PEB ruling in this case that any prerogatives outside the VASRD were exercised. In the matter of the right inguinal neuralgia condition with chronic right groin pain condition, the Board unanimously recommends a rating of 10% coded 8630 IAW VASRD §4.124a. In the matter of the status post radiofrequency ablation of right ilioinguinal nerve and genitofemoral nerve and the status post urgent right femoral hernia repair conditions, the Board unanimously recommends no recharacterization of the PEB adjudications as not separately unfitting for additional rating at separation. In the matter of the right inguinal scar condition, the Board unanimously agrees that it cannot recommend a finding of unfit for additional rating at separation. The Board unanimously agrees that there were no other conditions eligible for Board consideration which could be recommended as additionally unfitting for rating at separation.

RECOMMENDATION: The Board recommends that the CI’s prior determination be modified as follows, effective as of the date of his prior medical separation.

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| **UNFITTING CONDITION** | **VASRD CODE** | **RATING** |
| Right Inguinal Groin Nerve Pain | 8630 | 10% |
| **COMBINED** | **10%** |

The following documentary evidence was considered:

Exhibit A. DD Form 294, dated 20100102, 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 17 Mar 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 10 percent (increased from 0 percent) effective 31 August 2006.

3. Please ensure all necessary actions are taken to implement this decision including notification to the subject member once those actions are completed.

Principal Deputy

Assistant Secretary of the Navy

(Manpower & Reserve Affairs)