RECORD OF PROCEEDINGS

PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXX BRANCH OF SERVICE: navy

CASE NUMBER: PD1000023 SEPARATION DATE: 20030613

BOARD DATE: 20110519

SUMMARY OF CASE: Data extracted from the available evidence of record reflects that this covered individual (CI) was an active duty PO2 (GS2, Gas Turbine Systems Technician) medically separated for chondromalacia of the patella (CMP). The CI underwent a left knee arthroscopy with thermal chondroplasty of his patella and his medial tibial plateau. He did not respond adequately to treatment and was unable to perform within his rating or to meet physical fitness standards. He was placed on limited duty and underwent a Medical Evaluation Board (MEB). CMP was forwarded to the Physical Evaluation Board (PEB) as medically unacceptable IAW SECNAVINST 1850.4E. Chondromalacia of the tibial plateau was listed as Category II (conditions that contribute to the unfitting condition). Other conditions included in the Disability Evaluation System (DES) packet will be discussed below. The PEB adjudicated the CMP condition as unfitting, rated 10%, with application of SECNAVINST 1850.4E, and chondromalacia of the medial tibial plateau as Category II. The CI made no appeals and was medically separated with a 10% combined disability rating.

CI CONTENTION: “The rating for chondromalacia patella left knee with patellofemoral syndrome was not rated as “severe” as indicated on my MED Board which resulted to my discharge. No rating was acknowledged for diagnosis for patellar tendonitis. With condition being listed as severe, my rating should be rated as severe IAW the VASRD.” “Knee gives way 3 to 4 times post-surgery…”

RATING COMPARISON:

|  |  |
| --- | --- |
| **Service IPEB – Dated 20030221** | **VA (2 Mo. Pre Separation) – Effective Date 20030614** |
| **Condition** | **Code** | **Rating** | **Condition** | **Code** | **Rating** | **Exam** |
| Chondromalacia of the Patella, Left | 5299-5003 | 10% | Chondromalacia Patella, Left….. | 5299-5024 | 10% | 20030415 |
| Chondromalacia of the Medial Tibial Plateau, Left | CAT II |
| ↓No Additional MEB/PEB Entries↓ | 0% x 0/Not Service Connected x 1 | 20030415 |
| **Final Combined: 10%** | **Total Combined: 10%** |

ANALYSIS SUMMARY:

Chondromalacia Patella. The CI fell down a ladder while shipboard in July 2001 and injured his left knee. A magnetic resonance imaging (MRI) of the left knee showed a tear of the anterior horn of the lateral meniscus with adjacent osteochondral injury and a partial tear of the medical patellar retinaculum. In March 2002, he had left knee arthoroscopy with thermal chondroplasty of the patella and medial tibial plateau with minimal improvement. Post-operative physical therapy, anti-inflammatory medication, and three Synvisc injections provided partial, temporary relief. There were two goniometric range of motion (ROM) examinations summarized in the following chart.

|  |  |  |
| --- | --- | --- |
| **Goniometric ROM –****L Knee** | **MEB ~ 8 Mo. Pre-Sep** | **VA C&P ~ 2 Mo. Pre-Sep** |
| Flexion (140⁰ normal) | 0-130⁰ | 120⁰ (pain at 105⁰) |
| Extension (0⁰ normal) | -2⁰  | 0⁰ |
| Comment | Patellofemoral crepitus | Tenderness over knee medial worse than lateral; Positive patellar compression test |
| §4.71a Rating | 10% | 10% |

At the time of the MEB exam on 2 November 2002, seven months prior to separation, the CI had severe left anterior knee pain which limited his activities of daily living. He denied instability. On exam, there was no obvious deformity or swelling. Tenderness to palpation over the lateral and medial retinacula and medial femoral condyle were noted. ROM was noted to be symmetric with 130 degrees of flexion with some guarding. Patella-femoral crepitus was noted, as was a positive patellar grind and quadriceps inhibition. The narrative summary notes that meniscal signs were negative, but the PEB notes indicate +/- McMurray. The ligaments were stable. X-rays showed mild degenerative changes of the patello-femoral joint, but were otherwise unremarkable. He was diagnosed with CMP and the medial tibial plateau.

At the time of the VA compensation and pension (C&P) exam on 15 April 2003, two months prior to separation, he noted knee pain, frequent swelling, and that his knee “gave out” at times. He had flares weekly, and stated that he had lost over 30 days of work from his knee condition. On exam, posture and gait were normal with symmetric leg lengths. The joint appearance was normal, flexion reduced to 120 degrees on the left, with pain beginning at 105 degrees. There was also pain with repetition. Drawer sign was negative as was the McMurray test by this examiner. Tenderness over the knee was noted, medial greater than lateral. A patellar compression test was positive, but no crepitus, effusions, locking pain or recurrent subluxations were noted. X-rays were normal.

The MEB and the VA exams were equally comprehensive; the VA C&P exam was five months closer to separation and therefore has higher probative value. Positive findings included a tear of the left lateral meniscus on MRI, reduced flexion, tenderness to palpation and positive patellar compression and grind tests. Negative testing included the McMurray test and tests for ligamentous instability; no effusion was noted and gait was normal. The PEB and VA chose different coding options for the left knee condition, respectively 5299-5003 (analogous to degenerative arthritis) and 5299-5024 (analogous to tenosynovitis) were used. Both rated the condition at 10%. The Board considered 5258 (dislocated meniscus with frequent episodes of locking, pain and effusions) and 5259 (removal of the meniscus, symptomatic). There was no locking, effusion on exam, or surgery of the meniscus to support these codes even though the lateral meniscus was noted to be torn on MRI. There was limitation of flexion supporting 5260 (limitation of flexion), but the limitation was insufficient for a compensable rating other than utilizing VASRD §4.59 (painful motion) for a rating of 10%. All evidence considered, there is not reasonable doubt in the CI’s favor supporting a change from the PEB’s rating decision for the left knee condition.

Remaining Conditions. Other conditions identified in the DES file were scoliosis and back pain. Neither of these conditions was clinically significant during the MEB period, carried attached profiles, or was implicated in the non-medical assessment. These conditions were reviewed by the action officer and considered by the Board. It was determined that neither 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.

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

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 knee condition and IAW VASRD §4.71a, the Board unanimously recommends no re-characterization*.* In the matter of the scoliosis and back pain conditions, the Board unanimously agrees that it cannot recommend a finding of unfit for additional rating at separation for these conditions. 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 therefore recommends that there be no recharacterization of the CI’s disability and separation determination, as follows:

|  |  |  |
| --- | --- | --- |
| **UNFITTING CONDITION** | **VASRD CODE** | **RATING** |
| Chondromalacia of the Patella | 5299-5003 | 10% |
| **COMBINED** | **10%** |

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

The following documentary evidence was considered:

Exhibit A. DD Form 294, dated 20091228, 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 XXXXXX, FORMER USN

Ref: (a) DoDI 6040.44

 (b) PDBR ltr dtd 26 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)