RECORD OF PROCEEDINGS

PHYSICAL DISABILITY BOARD OF REVIEW

NAME: BRANCH OF SERVICE: army

CASE NUMBER: PD201000038 SEPARATION DATE: 20080617

BOARD DATE: 20110301

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

SUMMARY OF CASE: Data extracted from the available evidence of record reflects that this covered individual (CI) was an active duty SGT/E5 (68W, Medic), medically separated from the Army in 2008. The medical basis for the separation was bilateral knee tendinitis which approximately began in February 2003. There was no history of acute injury, prior surgeries or other invasive procedures. Despite physical therapy, duty modification and medications, he did not respond adequately to perform within his military occupational specialty (MOS) or participate in a physical fitness test (PFT). He was issued a permanent L-3 profile and underwent a Medical Evaluation Board (MEB). Bilateral knee tendinitis was addressed in the narrative summary (NARSUM) and forwarded to the Physical Evaluation Board (PEB) as medically unacceptable IAW AR 40-501. Three other conditions were forwarded as medically acceptable IAW AR 40-501. The informal PEB adjudicated the bilateral knee condition as unfitting, rated at 20% IAW the VA Schedule for Rating Disabilities (VASRD) §4.59. The CI made no appeals and was medically separated with a combined 20% disability rating.

CI CONTENTION: He elaborates no specific contentions regarding rating or coding and page two of DD Form 294 was not completed.

RATING COMPARISON:

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Service IPEB – Dated 20080226** | | | **VA (3 Mo. Pre Separation) – All Effective 20080618** | | | |
| **Condition** | **Code** | **Rating** | **Condition** | **Code** | **Rating** | **Exam** |
| Bilateral patellofemoral syndrome (PFS) | 5099-5003 | 20%  (10%+10%) | Right PFS | 5099-5014 | 10% | 20080325 |
| Left PFS | 5099-5014 | 10% | 20080325 |
| Migraines | Not unfitting | | Migraines | 8100 | 10% | 20080325 |
| GERD | Reflux Disease | 7346 | 10% | 20080325 |
| Asthma | Asthma | 6602 | 30% | 20080514 |
| ↓No Additional MEB/PEB Entries↓ | | | Lumbosacral Strain | 5237 | 20% | 20080325 |
| Pseudofollicuitis Barbae | 7806 | 10% | 20080325 |
| Sinusitis | 6513 | 0% | 20080325 |
| Purging Bulimia Nervosa | 9521 | 0% | 20080513 |
| Rhinitis | 6522 | 0% | 20080325 |
| Diabetes | 7913 | 20% | 20080325 |
| Bilateral pes planus, astigmatism, sleep disturbances – NSC  “weak ankles”, anxiety and wrist sprain – Not claimed | | | |
| Deviated septum- NSC | | | |
| **TOTAL Combined: 20%** | | | **TOTAL Combined (*Includes Non-PEB Conditions*): 80%** | | | |

ANALYSIS SUMMARY:

Bilateral Knee Tendonitis. The CI initially noted bilateral knee pain in early 2003 when he increased his running to prepare for Warrior Leader training. Conservative management, including medications, physical therapy and a limited duty profile helped, but his symptoms persisted. He was evaluated by orthopedics and diagnosed with PFS. In April 2007, he was assigned to an infantry unit where he marched, participated in formation, and did daily physical training which caused severe exacerbation and difficulty with sleep, going up and down stairs and long vehicle rides. The symptoms worsened over time. According to his commander, CI’s physical problems were exacerbated by his duties and multiplied when wearing required equipment (such as Kevlar) for his job. Orthopedics recommended no surgical intervention. The CI was treated with medication, physical therapy, knee support, knee classes, home exercises, profiles and was seen by sports medicine, which helped initially. However, his symptoms worsened when using steps/stairs. The bilateral PFS was now medically unacceptable and he was referred to a MEB. The MEB exam was eight months prior to separation. The more proximate source of comprehensive evidence on which to base the permanent rating recommendation in this case is the VA Compensation and Pension examination three months prior to separation (25 March 2008). The examiner noted the knees were essentially symmetrical on observation with no evidence of swelling or inflammation, no pain or effusion on palpation, and no evidence of instability, locking, or loss of function. There was evidence of pain during active and passive range of motion (ROM) testing. The knee joints were stable anterior, posterior, and laterally. McMurray and Lachman's tests were negative. There were two goniometric ROM evaluations in evidence which the Board weighed in arriving at its rating recommendation. Both of these exams are summarized in the chart below:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Knee | Separation Date: 20080617 | | | |
| Goniometric  ROM | Right Knee | | Left Knee | |
| MEB - 20071221 | VA C&P - 20080325 | MEB - 20071221 | VA C&P - 20080325 |
| Flex 0-140⁰ normal | 0⁰-135⁰ x 3 | 0⁰-135⁰ | 0⁰-135⁰ x 3 | 0⁰-135⁰ |
| Ext 0⁰ normal | 0⁰ x 3 | 0⁰/0⁰ | 0⁰ x 3 | 0⁰/0⁰ |
| Comments | No painful ROM | Pain at 135⁰ | No painful ROM | Pain at 135⁰ |
| §4.71a Rating | 10% IAW §4.59 | 10% IAW §4.59 | 10% IAW §4.59 | 10% IAW §4.59 |

Any of the goniometric ROMs proximate to separation would rate as 10% for each knee. The PEB DA Form 199 combined both knees into a single final rating of 5099-5003 at 20%, but specifically listed “10% combined with 10% = 19% plus 1.9 bilateral factor = 20.9% which rounds to 20%” indicating that each knee was rated 10%. While the Board considered either splitting the PEB coding to make it clearer that each joint was rated separately or using the VA coding of 5099-5014 for each joint, neither option changes the actual separation rating of 20%. After due deliberation and considering all of the evidence, the Board recommends no recharacterization for the bilateral PFS at 20% combined.

Other PEB Conditions. The other conditions forwarded by the MEB and adjudicated as not unfitting by the PEB were migraine headaches, gastro-esophageal reflux disease (GERD) and asthma. None of these conditions were profiled, implicated in the commander’s statement or noted as failing retention standards. All were reviewed by the Action Officer and considered by the Board. There was no indication from the record that any of these conditions significantly interfered with satisfactory performance of MOS requirements. All evidence considered, there is not reasonable doubt in the CI’s favor supporting recharacterization of the PEB fitness adjudication for any of the stated conditions. There were no other contended conditions.

Remaining Conditions. Other conditions identified in the DES file were lumbo-sacral strain, psuedofolliculits barbae, sinusitis, purging bulimia nervosa, bilateral pes planus, astigmatism, sleep disturbance, weak ankles, anxiety and wrist sprain. Several additional non-acute conditions or medical complaints were also documented. None of these conditions were clinically significant during the MEB period, none 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. It was determined that none could be argued as unfitting and subject to separation rating. Additionally, newly diagnosed diabetes mellitus (DM), temporarily on insulin, and deviated septum were noted in the VA rating decision prior to separation but were not documented in the DES file. In fact, the fasting blood sugar done for the MEB was normal. There was one episode in the service treatment record of polydipsia and polyuria two and a half years before separation, but the blood glucose was normal and no diagnosis of DM made. The Board does not have the authority under DoDI 6040.44 to render fitness or rating recommendations for any conditions not considered by the DES. The Board, therefore, has no reasonable basis for recommending any additional unfitting conditions for separation rating.

BOARD FINDINGS: IAW DoDI 6040.44 and 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 bilateral PFS and IAW VASRD §4.71a, the Board unanimously recommends no re-characterization. Regarding the migraine headaches, GERD and asthma conditions, the Board unanimously recommends no re-characterization of the PEB adjudication as not unfitting. In the matter of the remaining conditions or any other 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 re-characterization of the CI’s disability and separation determination.

|  |  |  |  |
| --- | --- | --- | --- |
| **UNFITTING CONDITION** | | **VASRD CODE** | **RATING** |
| Bilateral Patellofemoral pain syndrome | | 5099-5003 | 10% + 10% |
| **COMBINED (Incorporating BLF)** | | **20%** |

The following documentary evidence was considered:

Exhibit A. DD Form 294, dated 20100120, w/atchs.

Exhibit B. Service Treatment Record.

Exhibit C. Department of Veterans' Affairs Treatment Record.

