RECORD OF PROCEEDINGS

PHYSICAL DISABILITY BOARD OF REVIEW

NAME: BRANCH OF SERVICE: marine corps

CASE NUMBER: PD1000039 SEPARATION DATE: 20060131

BOARD DATE: 20110907

SUMMARY OF CASE: Data extracted from the available evidence of record reflects that this covered individual (CI) was an active duty LCpl/E-3 (0311, Rifleman) medically separated for left-sided scrotal pain w/recurrent varicocele. The CI presented with significant left-sided scrotal pain and underwent two varicocele ligations. The CI was treated with medications which included courses of antibiotic and pain management, but these interventions were unsuccessful in enacting change in his pain. The CI did not respond adequately to treatment, was unable to perform within his military occupational specialty (MOS) or participate in a physical fitness test. The CI was placed on limited duty for the varicocele and underwent a Medical Evaluation Board (MEB). The MEB found “unspecified disorder of male genital organs and scrotal varices” as interfering with duty and forwarded to the Physical Evaluation Board (PEB) on the NAVMED 6100/1. Other conditions included in the Disability Evaluation System (DES) packet will be discussed below. The Informal PEB adjudicated “left-sided scrotal pain with recurrent varicocele” as unfitting rated 10% with probable application of SECNAVINST 1850.4E. The CI made no appeals and was medically separated with a 10% disability rating.

CI CONTENTION: “I have since been rated by the VA for other things that the Corps did not…” He elaborates no specific contentions regarding rating or coding and mentions no additionally contended conditions.

RATING COMPARISON:

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| --- | --- | --- | --- | --- | --- | --- |
| **Service IPEB – Dated 20051123** | | | **VA (6 Mo. After Separation) – All Effective Date 20060201** | | | |
| **Condition** | **Code** | **Rating** | **Condition** | **Code** | **Rating** | **Exam** |
| Left-Sided Scrotal Pain w/Recurrent Varicocele | 8699-8630 | 10% | Left Scrotal Varicocele and Left Testicular Hydrocele | 7599-7120 | 10% | 20060804 |
| Varicocelectomy Scar, Groin | 7804 | 10%\* | 20060804 |
| ↓No Additional MEB/PEB Entries↓ | | | Posttraumatic Stress Disorder (PTSD) | 9411 | 30% | 20060802 |
| Tinnitus | 6260 | 10% | 20060804 |
| Not Service Connected x 1 | | | 20060804 |
| **Combined: 10%** | | | **Combined: 50%\*** | | | |

\*Varicocelectomy scar decreased to 0%, effective 20110401 (combined 40%)

ANALYSIS SUMMARY: The DES is responsible for maintaining a fit and vital fighting force. While the MDES considers all of the service member's medical conditions, compensation can only be offered for those medical conditions that cut short a service member’s career, and then only to the degree of severity present at the time of final disposition. However the Department of Veteran Affairs, operating under a different set of laws (Title 38, United States Code), is empowered to compensate service connected conditions and to periodically re-evaluate said conditions for the purpose of adjusting the veteran’s disability rating should the degree of impairment vary over time.

Left-Sided Scrotal Pain with Recurrent Varicocele. The CI developed left-sided scrotal pain in 2004 and was seen by urology for an evaluation. The urologist documented a Grade 3 left varicocele, and the CI had an ultrasound which confirmed the exam findings. The CI was then seen by urology in 2004 and diagnosed with moderate severe thrombosed varicoceles. The CI underwent a left varicocelectomy in 2005; however, he still had residual pain and, while the varicocele was reduced in size, this was still present. The CI underwent a second varicocelectomy in July 2005, but still had complaints of pain. The MEB exam three months prior to separation documented that the CI continued to have “significant scrotal pain and swelling in his spermatic cord.” On physical exam, there was mild to moderate tenderness to palpation and swelling of the entire spermatic cord in addition to the varicocele. Although the CI was followed in pain clinic, the MEB examiner noted that the CI would have “significant scrotal pain for the foreseeable future and would not be able to perform his duties adequately.” The VA compensation and pension (C&P) exam seven months after separation noted that the CI still had chronic pain from the left varicocele and left-sided hydrocele and swelling of the left testicle area and scrotum. The examiner indicated that the CI had mild difficulties shopping and moderate difficulties travelling, going to the toilet and had severe difficulties exercising, playing sports and doing recreation. The CI was seen in 2007 by urology and had a VA C&P exam which both documented that the CI had symptomatic left varicocele.

The Board directs its attention to its rating recommendations based on the evidence just described. The PEB and VA chose different coding options for this condition. The MEB diagnosis was left-sided scrotal pain with recurrent varicocele and applied the analogous VASRD code 8699-8630 (ilioinguinal nerve, neuritis) as the basis for its 10% rating. The Board also considered that later VA records indicated results of retrained shrapnel; however, there was no muscle injury documented on the MEB exam or the various urology exams. At the time of separation, the VA diagnosed chronic scrotal swelling and applied the analogous VASRD code 7599-7120 (varicose veins) as the basis for its 10% rating (intermittent edema of extremity). VASRD §4.123 stipulates that neuritis characterized by loss of reflexes, muscle atrophy, sensory disturbances and constant pain, at times excruciating, is to be rated on the scale provided for injury of the nerve involved, with a maximum equal to severe, incomplete, paralysis. In this case, the rating is for severe to complete impairment; therefore, the PEB rating accurately reflects the PEB coding. The evidence supports a neurologic etiology for this condition since pain is the overriding pathology and the Board determined that the 8630 peripheral nerve code closely reflected not only the functions affected, but the anatomical localization and symptomatology of the CI’s condition. Additionally although the 7120 code does acknowledge the scrotal and testicular swelling, this code does not adequately identify the chronicity of scrotal/testicular swelling issue as the CI experienced chronic, not intermittent, swelling nor does it address the severe ongoing degree of pain that the CI was experiencing. The Board agreed therefore that the PEB coding choice was predominate; and, furthermore, that no code available in VASRD §4. 115b (genitourinary system) appropriately reflected the clinical picture and impairment as well as the 8730 peripheral nerve code or would result in a higher rating. The PEB took into consideration that §4.124a does allow for a rating of severe to complete in this case, and the Board considered extra-scheduler rating as severe because of the degree and persistence of pain in evidence. The Board concluded that this liberty was appropriately taken in this case, especially in consideration that the 8630 rating is applied analogously and not in precise context with the §4.124a stipulation applicable to sensory impairment, rather than constant pain. After due deliberation, considering all of the evidence and mindful of VASRD §4.3 (reasonable doubt), the Board concluded that there was insufficient cause to recommend a change in the PEB adjudication for left-sided scrotal pain with recurrent varicocele.

Other Contended Conditions. The CI’s application implies that compensable ratings should be considered for varicocelectomy scar, groin; tinnitus; and PTSD. These conditions were noted in the DES package. By precedent, the Board does not recommend separation rating for scars unless their presence imposes a direct limitation on fitness. The tender groin scar was not unstable or overlying the scrotum/testicle area. There was no evidence that tinnitus interfered with understanding speech/conversations or interfered with duty. The PTSD condition was diagnosed and stable on medications, with an additional diagnosis of alcohol abuse likely related to PTSD. The CI was evaluated by psychiatry during the MEB/PEB timeframe proximate to separation, with assessment of symptoms in the moderate range and specific notation that there were no psychiatric limitations. The six-month post-separation VA PTSD exam indicated moderate symptoms with additional diagnoses of depressed mood and anxiety secondary to PTSD; and alcohol abuse and dependence secondary to PTSD with a 30% rating of the exam. There was no limited duty for, or mention of any mental health disorder in the non-medical assessment. All of these conditions were reviewed by the action officer and considered by the Board. There was no evidence for concluding that any of the conditions interfered with duty performance to a degree that could be argued as unfitting. The Board determined therefore that none of the stated conditions were subject to service disability rating.

Remaining Conditions. Other conditions identified in the DES file were possible right ear drum perforation; plantar warts and genital warts. Several additional non-acute conditions or medical complaints were also documented. None of these conditions were the basis for limited duty and none were implicated in the non-medical 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. 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-sided scrotal pain with recurrent varicocele condition and IAW VASRD §4.124a, the Board unanimously recommends no change in the PEB adjudication. In the matter of the varicocelectomy scar, groin; tinnitus; and PTSD 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, as follows:

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| **UNFITTING CONDITION** | **VASRD CODE** | **RATING** |
| Left-Sided Scrotal Pain with Recurrent Varicocele | 8699-8630 | 10% |

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The following documentary evidence was considered:

Exhibit A. DD Form 294, dated 20091216, w/atchs.

Exhibit B. Service Treatment Record.

Exhibit C. Department of Veterans' Affairs Treatment Record.

