RECORD OF PROCEEDINGS

PHYSICAL DISABILITY BOARD OF REVIEW

NAME: BRANCH OF SERVICE: Army

CASE NUMBER: PD1000042 SEPARATION DATE: 20041115

BOARD DATE: 20110707

SUMMARY OF CASE: Data extracted from the available evidence of record reflects that this covered individual (CI) was an active duty SGT/E-5 (92A, Logistics) medically separated for posttraumatic headaches. His brain was injured by closed head trauma in December 1999, and then an improvised explosive device (IED) blast in November 2003. He did not respond adequately to treatment and was unable to perform within his military occupational specialty (MOS) or meet physical fitness standards. The CI was issued a permanent profile and underwent a Medical Evaluation Board (MEB). Posttraumatic headache was forwarded to the Physical Evaluation Board (PEB) as medically unacceptable IAW AR 40-501. The PEB found the posttraumatic headache condition unfitting, and rated it 10% IAW the Veterans’ Administration Schedule for Rating Disabilities (VASRD). The CI made no appeals, and was medically separated with a 10% disability rating.

CI’s CONTENTION: “Misdiagnosis and results VA Medical Review Board. An increase in VA Disability Rating.”He elaborates no specific contention regarding coding or rating, and mentions no additionally contended conditions.

RATING COMPARISON:

|  |  |
| --- | --- |
| **Army PEB – dated 20040903** | **VA (4 mos. Pre-Separation) – All Effective 20041116** |
| **Condition** | **Code** | **Rating** | **Condition** | **Code** | **Rating** | **Exam** |
| Posttraumatic Headaches | 8045-9304 | 10% | Posttraumatic Headaches | 9304 | 10% | 20040920 |
| ↓No Additional MEB/PEB Entries↓ | Posttraumatic Stress Disorder  | 9411 | \*30% | 20041014 |
|  | Cervical Strain | 5237 | 10% | 20040920 |
| Back Muscle Spasm | 5237 | 10% | 20040920 |
| Hiatal Hernia | 7399-7346 | \*\*0% | 20040920 |
| Eczema | 7806 | \*\*\*0% | 20040920 |
| 0% x 2 / Not Service Connected x 7 | 20041116 |
| **Combined: 10%** | **Combined: 50%** |

\*Increased 9411 to 70% effective 20090319; \*\*Increased 7399-7346 to 10% effective 20090319; \*\*\*Increased 7806 to 10% effective 20090319 (Total 80% effective 20090319)

ANALYSIS SUMMARY:

Posttraumatic Headaches. The CI suffered traumatic brain injury (TBI) in December 1999 during a parachute landing fall. He had a very hard landing, hit his head and had loss of consciousness (LOC) for 30-60 minutes. He was diagnosed with post-concussive syndrome, and treated with medication. The headaches and forgetfulness slowly improved. In June 2000, the CI was put on a permanent P2 profile, with the only limitation being no parachuting. In November 2003, he was in a truck when an IED exploded under the vehicle, causing his head to hit the navigation system. He had a momentary LOC and was diagnosed with mild concussion. After this second head trauma, the CI’s headaches became more frequent. In June 2004, the pain was nearly constant, with prostrating attacks occurring two days per week. During the prostrating headaches the pain was 10/10 and associated with nausea, photophobia, and phonophobia. The headaches were worse with movement and alleviated by lying down. Due to the severity and frequency of the headaches the CI underwent an MEB in June 2004. At his MEB evaluation five months prior to separation his neurological exam was normal. There were no abnormal reflexes or cerebellar abnormalities. Motor strength was normal, gait was normal, and sensation was intact in all extremities. A magnetic resonance imaging (MRI) in August 2004 was normal. The CI’s commander reported that due to the headaches, the CI could no longer work in his MOS.

At the VA compensation and pension (C&P) exam two months prior to separation the CI complained of a constant, throbbing headache during the day while working. He also had pain in his eyes. The head pain was not present upon awakening, but began when he started working. It was relieved by rest and medication. The CI denied any history of seizures. On exam the CI had normal toe/heel walk, and was able to stand on one foot bilaterally. Neurological exam was normal. A psychological exam revealed appropriate comprehension, response and reaction. He was seen again on 14 October 2004, one month prior to separation. The examiner reported no impairment of thought processes or communication, and no memory loss. In conclusion, the examiner stated, “posttraumatic brain disorder seems to be resolving well.”

The VA and the PEB used similar codes to rate the posttraumatic headaches and both rated the disability at 10%. According to §4.124a of the 2004 VASRD, “purely subjective complaints such as headache, dizziness, insomnia, etc., recognized as symptomatic of brain trauma will be rated 10 percent and no more under diagnostic code 9304. This 10 percent rating will not be combined with any other rating for a disability due to brain trauma. Ratings in excess of 10 percent for brain disease due to trauma under diagnostic code 9304 are not assignable in the absence of a diagnosis of multi-infarct dementia associated with brain trauma.”

The CI clearly had subjective complaints (head pain, eye pain) at the time of separation. His neurological exam was normal. The MRI was normal. All evidence considered, there is not reasonable doubt in the CI’s favor supporting a change from the PEB’s rating decision. The Board unanimously recommends a rating of 10% for the posttraumatic headache condition.

Mental Condition. Posttraumatic stress disorder (PTSD) and depression were also documented in the Disability Evaluation System (DES) file. The CI was treated, and he improved with medication. At appointments in February, March and May of 2004; the CI denied feeling depressed, hopeless, or experiencing a lack of interest/pleasure in doing things. Review of the treatment record shows that the CI was doing well on his antidepressant medication. There was no mention in the commander’s statement that the psychiatric diagnoses were affecting the CI’s ability to perform in his MOS. There is no evidence that the CI was on a profile for either of these mental diagnoses prior to separation. After due deliberation and consideration of all the evidence, the Board unanimously agrees that the mental disorders (depression and PTSD) were not unfitting at the time of separation.

Remaining Conditions. Hypertriglyceridemia, back pain, hiatal hernia, hearing loss, eczema, and several other conditions were also found in the DES file. None of these conditions carried profiles and none were implicated in the commander’s statement. They were all 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. Cervical strain was noted in the VA rating decision proximal to separation, but was not found in the DES file. The Board does not have the authority 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, 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 posttraumatic headache condition IAW 2004 VASRD §4.124a, the Board unanimously recommends no change in the PEB adjudication. In the matter of the PTSD, depression, hypertriglyceridemia, back pain, hiatal hernia, hearing loss, eczema, 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, as follows:

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| **UNFITTING CONDITION** | **VASRD CODE** | **RATING** |
| TBI – Posttraumatic Headaches | 8045-9304 | 10% |
| **COMBINED** | **10%** |

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The following documentary evidence was considered:

Exhibit A. DD Form 294, dated 20100122, w/atchs.

Exhibit B. Service Treatment Record.

Exhibit C. Department of Veterans' Affairs Treatment Record.

