RECORD OF PROCEEDINGS

PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXXX BRANCH OF SERVICE: MARINE CORPS

CASE NUMBER: PD1000045 SEPARATION DATE: 20070430

BOARD DATE: 20110304

SUMMARY OF CASE: Data extracted from the available evidence of record reflects that this covered individual (CI) was an active duty E-6/SSgt (5811/Military Police) medically separated from the Marine Corps in 2007 after ten years of service. The medical basis for the separation was bilateral plantar fasciitis (PF). Despite physical therapy (PT), medications, a non-weight bearing cast, orthotics, and surgery, he was unable to perform within his Military Occupational Specialty (MOS) or participate in the physical fitness test (PFT). He was placed in limited duty status (LIMDU) twice and underwent a Medical Evaluation Board (MEB). Status post (S/P) left heel spur resection; degenerative changes of the rear foot bilaterally, worse on the left; and peroneal tendonitis of the left foot ankle were the NARSUM diagnoses. However, plantar fascial fibromatosis, other enthesopathy of ankle and tarsus (muscle/tendon attachment condition), and equinus deformity of foot (acquired) were forwarded to the Physical Evaluation Board (PEB). The PEB adjudicated PF as unfitting at 10% with associated Category 2 diagnoses (contributory, but not separately unfitting) of SP left heel spur resection; degenerative changes of the rear foot bilaterally, worse on the left; and peroneal tendonitis of the left foot ankle. Bilateral gastrocnemius equinus bilaterally was adjudicated as not unfitting. The CI made no appeals and was medically separated with a disability rating of 10% following a requested period of permanent LIMDU.

CI CONTENTION: The CI states: “The rating for the condition for which I was found unfit should be changed because it was present in both the left & right feet and because it was considered chronic. Regardless of the treatments or procedures to fix the problem, it never went away. I also disagree with my ratings because the problem which caused me to be unfit (Plantar Fasciitis) led to and caused more problems, which were the real reason I could not perform at 100%. The Plantar Fasciitis was severe enough that it caused calcaneal spurs (bone spurs) in both my feet, which I still have. It led to and contributed to the degenerative changes in both my ankles and feet. The orthotics I wear still do not relieve the pain in my feet or ankles. Also, when it flares up, I can barely walk for the pain in my feet.” The CI also lists: left ankle degenerative changes and strain left patella femoral syndrome (PFS), right PFS, left wrist strain, lumbar spine strain, left and right plantar fasciitis and Achilles tendinitis with post calcaneal spurs, gastro-esophageal reflux disease (GERD) with non-erosive gastritis, status-post heel spur removal with residual scar. “Plantar fasciitis was the initial cause which led to the other conditions. It was recognized by the DOD and given a rating. But the other conditions, even though they were more severe and disabilitating (sic), were not recognized by the DOD or the MEB. I think its (sic) unfair way of evaluating a case.”

RATING COMPARISON:

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| **Service IPEB – Dated 20061222** | **VA (2 Mo. Pre-Separation) – All Effective 20070501** |
| **Condition** | **Code** | **Rating** | **Condition** | **Code** | **Rating** | **Exam** |
| Plantar Fasciitis Bilaterally | 5399-5310 | 10% | L PF and Achilles Tendonitis with Spur | 5399-5310 | 10% | 20070207 |
| R PF and Achilles Tendonitis with Spur | 5399-5310 | 10% | 20070207 |
|  | L Heel Spur Resection | Cat II | S/P L Heel Spur Removal with Scar | 7804 | 10% | 20070207 |
|  | L>R Foot Deg Changes | Cat II | L Ankle Degenerative Changes & Strain | 5003 | 10% | 20070207 |
|  | L Peroneal Tendonitis | Cat II |
| Bilat Gastroc Equinus  | Cat III | No corresponding VA rating |
| ↓No Additional PEB Entries↓ | Right Ankle Degenerative Changes | 5003 | 0% | 20070207 |
| Bilateral Pes Planus | 5276 | 0% | 20070207 |
| GERD w/ gastritis | 7346 | 10% | 20070207 |
| R PFS | 5099-5019 | 10% | 20070207 |
| L PFS | 5099-5019 | 10% | 20070207 |
| Left Wrist Strain | 5024 | 10% | 20070207 |
| Lumbar Spine Strain | 5237 | 10% | 20070207 |
| Tension Headaches | 8199-8100 | 0% | 20070207 |
| **TOTAL Combined: 10%** | **TOTAL Combined (*Includes Non-PEB Conditions*): 60% (w/ BLF)** |

ANALYSIS SUMMARY: The Board acknowledges the sentiment expressed in the CI’s application, i.e., that there should be additional disability assigned for either worsening of his service-incurred conditions or the significant impairment with which his service-incurred condition continues to burden him. It is a fact, however, that the DES has neither the role nor the authority to compensate service members for anticipated future severity or potential complications of conditions resulting in medical separation. 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. Finally, the presence of a diagnosis is insufficient for an unfitting determination.

Bilateral Plantar Fasciitis. Symptoms from PF began insidiously in 2003. He was initially treated with orthotics, anti-inflammatory medications and oral steroids with a favorable response. However, his symptoms recurred in early 2005 and proved resistant to further treatment which also included a non-weight bearing cast of the more symptomatic left foot, a steroid injection as well as surgery to remove a calcaneal spur. He was seen regularly in the orthopedic, podiatric and PT clinics. A MRI of the left ankle showed minimal fluid in the posterior recess of the subtalar joint and was otherwise normal. A bone scan showed no fractures, but did show increased uptake consistent with non-specific degenerative changes in both ankles and feet. The CI was placed on LIMDU twice before referral to PEB and separation. The first LIMDU addressed both feet; however, the second LIMDU was solely for the left foot and ankle. Review of the service treatment record proximate to the MEB timeframe and separation shows that it is almost entirely concerned with the left foot and ankle and reveals little evidence of impairment from the right plantar fascia for the two years prior to separation. The MEB physical was over five months prior to separation and indicated bilateral plantar fasciitis. The VA compensation and pension (C&P) exam, two months prior to separation, annotated moderate tenderness of the plantar surfaces and of the Achilles tendon, bilaterally. Gait was normal as was posture; no ambulatory aids were required. There were multiple differences between the specific conditions forwarded by the MEB and the PEB adjudicated conditions; however, all MEB and PEB conditions related to the lower extremities. Other conditions adjudicated by the PEB as Category II were left heel spur resection, left greater than right degenerative changes of the rear foot, and peroneal tendonitis of the left foot and ankle. The PEB also adjudicated bilateral gastrocnemius equinus as Category III (not separately unfitting and does not contribute to the unfitting condition). At the MEB exam, the CI was noted to have no swelling or effusion, to have tenderness along the left lateral malleolus and peroneal tendons, a non-localized “clicking sensation within the area of the lateral ankle; however, it is not clear whether there is a subluxation or what type of structure is causing the popping sensation.” There was tenderness of the plantar fascia of both feet with reduced dorsiflexion (“just less than 5 degrees...with straight leg and just less than 10 degrees…bent knee” [normal 20°]) bilaterally. The scar from the calcaneal spur resection was well healed. On the C&P exam, the left ankle was noted to be tender, there was a scar from the spur excision and decreased range of motion (ROM). Neither ankle revealed edema, effusion, weakness, warmth, erythema, guarding of movement or subluxation. The range of motion (ROM) was normal and pain free on the right, but reduced on the left with 10 degrees dorsiflexion, pain at 10 degrees, and 30 degrees plantar flexion (normal 20° and 45°, respectively). The second LIMDU specifically cited the left heel spur resection and peroneal tendonitis and could have provided shelter for limitations from the left ankle condition. The PEB condition of “degenerative changes of the rear foot bilaterally, worse on the left” when coupled with the PEB condition “peroneal tendonitis of the left foot ankle” would indicate that degenerative changes in the left rear foot and ankle motion limitations/pain were part of the CI’s unfitness for duty. The Board considered rating the left ankle degeneration separately, but determined the rear-foot pain was best considered as degenerative changes of the left rear foot which also contributed to the limitation of ankle motion from the plantar fasciitis. The Board considered the left heel spur resection as part of the degenerative changes of the left rear foot, and the peroneal tendonitis of the left foot and ankle as part of the unfitting left plantar fasciitis. In the matter of the bilateral PF condition, the Board recommends that each foot be separately adjudicated as follows: an unfitting right PF condition coded 5399-5310 and rated 0% (slight impairment) and an unfitting left PF condition coded 5399-5310 and rated 20% (for moderately severe impairment), IAW the VA Schedule for Rating Disabilities (VASRD) §4.73. The Board recommends no additional separately unfitting foot or ankle condition, or change in the PEB adjudications other than PF, and all symptoms were considered under the separate 5399-5310 coding ratings above.

Other Contended Conditions. Other conditions identified in the DES file were GERD with non-erosive gastritis, PFS (noted as knee pain on the MEB history), left wrist strain, lumbar spine strain, and tension headaches. None of these conditions were clinically significant during the MEB period, carried attached profiles or 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 additional separation rating. No other conditions were service connected with a compensable rating by the VA within 12 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 bilateral PF condition, the Board, by a vote of 2:1, recommends that each foot be separately adjudicated as follows: an unfitting right PF condition coded 5399-5310 and rated 0%; and, an unfitting left PF condition coded 5399-5310 and rated 20%; both IAW VASRD §4.73. The dissenting voter recommended that the right foot be rated at 10%, versus 0%, but did not elect to submit a minority opinion. In the matter of the left heel spur resection, bilateral foot degenerative changes, left peroneal tendinitis and bilateral gastrocnemius equinus conditions, the Board unanimously recommends no recharacterization of the PEB adjudications as not separately unfitting as they were considered under the unfitting left and right plantar fasciitis condition ratings. 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** |
| Left Plantar Fasciitis, s/p left heel spur resection, degenerative changes in the rear foot and peroneal tendonitis on the left ankle | 5399-5310 | 20% |
| Right Plantar Fasciitis | 5399-5310 | 0% |
| **COMBINED (Incl BF)** | **20%** |

The following documentary evidence was considered:

Exhibit A. DD Form 294, dated 20100125, 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 XXXXX

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 20 percent (increased from 10 percent) effective 30 April 2007.

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

 Principal Deputy

 Assistant Secretary of the Navy

 (Manpower & Reserve Affairs)