RECORD OF PROCEEDINGS

PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXX BRANCH OF SERVICE: marine corps

CASE NUMBER: PD1000101 SEPARATION DATE: 20011130

BOARD DATE: 20110720

SUMMARY OF CASE: Data extracted from the available evidence of record reflects that this covered individual (CI) was an active duty LCpl (3531 / Motor Transport Operator) medically separated for left recurrent snapping hamstring tendons in 2001*.* He did not respond adequately to treatment, which included surgery, and was unable to perform within his military occupational specialty (MOS) or to meet physical fitness standards. He was placed on limited duty (LIMDU) and underwent a Medical Evaluation Board (MEB). Status post (S/P) left hamstring and semitendinosus tendon/gracilis tendon (ST/GT) release for snapping hamstring were forwarded to the Physical Evaluation Board (PEB) as the only medically unacceptable condition IAW SECNAVINST 1850.4E. One other condition, as identified in the rating chart below, was forwarded on the MEB submission as medically acceptable. The PEB adjudicated the recurring snapping hamstring tendons recalcitrant to surgical intervention and conservative measures exhausted as unfitting, rated 10%, and S/P left hamstring ST/GT release for snapping hamstring as category II (conditions that contribute to the unfitting condition) with application of SECNAVINST 1850.4E and DoDI 1332.39. The CI made no appeals, and was medically separated with a 10% disability rating.

CI CONTENTION: He elaborates no specific contentions regarding rating or coding and mentions no additionally contended conditions.

RATING COMPARISON:

|  |  |
| --- | --- |
| **Service IPEB – Dated 20010925** | **VA (5 Mo. before Separation) – All Effective 20011201** |
| **Condition** | **Code** | **Rating** | **Condition** | **Code** | **Rating** | **Exam** |
| Recurrent Snapping Hamstring Tendons Recalcitrant To Surgery and Conservative Measures Exhausted | 5299-5003 | 10% | Post-Op Left Hamstring Release | 5257 | 20% | 20010620 |
| S/P Hamstring ST/GT Release For Snapping  | Category II |
| No Additional MEB/PEB Entries | Lumbosacral Strain  | 5295-5292 | 10% | 20010620 |
| Tinnitus | 6260 | 10% | 20010620 |
| 0% x2/Not Service Connected x 3 |
| **Combined: 10%** | **Combined: 40%** |

ANALYSIS SUMMARY:

Recurrent Snapping Hamstring Tendons Recalcitrant To Surgical Intervention And Conservative Measures Exhausted. In March 2000 the CI first noted left knee and posterior left hamstring pain and snapping after a 25-mile hike. Surgical release of the ST/GT was performed on 28 February 2001, followed by extensive physical therapy without improvement. There were three goniometric range of motion (ROM) evaluations after the immediate post-surgical period summarized in the following chart.

|  |  |  |  |
| --- | --- | --- | --- |
| ROM –L Knee | MEB ~4 Mo. Pre-Sep | VA C&P ~ 5 Mo. Pre-Sep | VA C&P ~ 11 Mo. Post-Sep |
| Flexion (140⁰ normal) | 0-130⁰ | 0-125⁰ | 0-85⁰ |
| Extension (0⁰ normal) |  | 0-7⁰(hyperextension) | - |
| Comment | Palpable & audible pop |  | “Joint instability” |
| §4.71a Rating | 10% pain | 20% for instability  | 20% for instability |

The PEB exam on 9 May 2001 was six months pre-separation and only two months post-surgery. It was noted that he was still in physical therapy and was unable to fully flex his knee, limited to 30 degrees, with considerable weakness of the knee flexors. Significant clicking and popping were noted with passive motion as well as a mild decrease in sensation of the distal anterior tibia. This examination was early in the post-operative period and thus has limited probative value for use in the permanent rating. In physical therapy evaluations the previous month, the therapist noted 3/5 motor function and that he had fallen six weeks after surgery, with a consequent relapse in his recovery. The initial VA compensation and pension (C&P) exam was performed 20 June 2001, five months prior to separation and three months after surgery. At this exam, the CI noted constant pain treated with tylenol and ice. He was noted to wear a brace and to have had limitations going up and down stairs and was unable to use a clutch while driving. (The CI was a motor transport operator.) Crepitus was noted with tenderness along the lateral joint line. There was fullness of the infrapatellar fossa suggesting effusion. Flexion of the knee was 125 degrees and extension 0-7 degrees (hyper-extension). Laxity of the anterior cruciate ligament was noted. McMurray’s sign was negative. Plain films of the knee were without significant abnormality. Gait was normal. An orthopedic addendum to the MEB/PEB on 23 July 2001, occurred four months prior to separation, almost five months after surgery. At that time, the CI continued to complain of pain. His ROM was 130 degrees of flexion; extension was not annotated. Sensation was decreased along the proximal anterolateral aspect of the left tibia in the area of the incision. Motor function was decreased (but improved) in the hamstrings 4/5. An audible and palpable pop of the posteromedial aspect of the left knee was noted, consistent with hamstring snapping. The second VA C&P exam was performed 29 October 2002, eleven months after separation and twenty months after surgery. Gait was noted to be normal. The examiner documented, “no deformity, no inflam, no effusion, positive for crepitus, positive for laxity in joint. Pain with varus/valgus stress, predominately medial aspect. ROM: flexion 85 degrees, extension 0 degrees, hyperextension 7 degrees.” The two VA C&P and the orthopedic (addendum) MEB examinations were considered in determining the permanent rating recommendation for the unfitting hamstring condition. The Board noted that the PEB coded the hamstring condition as 5299-5003 (analogous to arthritis) rated 10%, likely due painful motion since there was no compensable limitation of ROM for the knee joint. The VA coded the hamstring condition as 5257 (recurrent subluxation or lateral instability) rated 20% for moderate lateral instability. The Board determined that the hamstring condition of the knee had several potentially disabling components. In addition to the 10% for painful motion granted by the PEB under 5299-5003 and the lateral instability coded 5257 by the VA, the Board considered a 10% rating under §4.10 and 5313 for functional impairment due to the demonstrated weakness of the hamstring muscles and the inability to use the leg to drive clutch vehicles noted on the initial C&P; however, the loss of function was not present after post-operative healing. The Board noted that the CI wore a brace and that he stated that his knee had given way on the initial C&P; however, this was not documented on subsequent exams*.* The Board notes that surgical release of the hamstring tendons denies the CI of full support of the lateral and posterior knee and is a potential source of instability. The hyper-extension of the knee was additional evidence of this instability. While the anterior cruciate ligament was also noted to be lax on the initial VA C&P, it was not part of the unfitting condition. However, it could have added to the knee instability that is present after two of the lateral ligaments supporting the knee are released. The Board determined that while both the PEB code of 5099-5003 for painful motion under VASRD §4.59 and 5257 for instability could be supported; both stemmed from the same underlying condition, snapping hamstrings with release, and combining them would violate VASRD §4.14 (pyramiding). A higher rating is supported under code 5257. After due deliberation considering all of the evidence and mindful of VASRD §4.3 (reasonable doubt), the Board recommends a combined separation rating of 20% for the left hamstring condition coded as instability under 5257 and rated as moderate (20%).

Remaining Conditions. Other conditions identified in the Disability Evaluation System (DES) file were car sickness, migraines, nasal fracture with subsequent congestion, trouble getting to sleep, and heartburn. Several additional non-acute conditions or medical complaints were also documented. None of these conditions were clinically significant during the MEB period, none were the basis for limited duty, and none were implicated in the non-medical assessment (NMA). 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, lumbosacral strain, tinnitus, and several other non-acute conditions were noted in the VA rating decision proximal to separation, but were not documented in the DES file. 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, 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 hamstring condition and IAW VASRD §4.71a, the Board unanimously recommends that the PEB adjudication be recharacterized to left knee lateral instability, coded 5257, and rated as moderate at 20%. In the matter of the left hamstring release or any other medical conditions eligible for Board consideration, the Board unanimously agrees that it cannot recommend a finding of unfit for additional 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 Knee Lateral Instability  | 5257 | 20% |
| **COMBINED** | **20%** |

The following documentary evidence was considered:

Exhibit A. DD Form 294, dated 201000101, 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 XXXX, FORMER USMC, XXX XX XXXX

Ref: (a) DoDI 6040.44

 (b) PDBR ltr dtd 23 Aug 11

1. I have reviewed the subject case pursuant to reference (a) and approve the recommendation of the Physical Disability Board of Review (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 November 2001.

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

 Assistant General Counsel

 (Manpower & Reserve Affairs)