RECORD OF PROCEEDINGS

PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXXXXXXXXXXX. BRANCH OF SERVICE: Army

CASE NUMBER: PD201000123 SEPARATION DATE: 20050907

BOARD DATE: 20111121

SUMMARY OF CASE: Data extracted from the available evidence of record reflects that this covered individual (CI) was an active duty SPC (42A/Human Resource Specialist) medically separated for low back pain (LBP) and bilateral plantar fasciitis. In 2002, the CI had a gradual onset of LBP, not attributed to any trauma. The plantar fasciitis developed in 2001 when the CI was diagnosed with heel stress fractures. There was no improvement after wearing a cast for six weeks. The CI did not respond adequately to treatment and was unable to perform within his military occupational specialty or meet physical fitness standards and was issued a permanent P2/L3 profile and underwent a Medical Evaluation Board (MEB). The MEB forwarded LBP (L4-S1 degenerative disc disease slight/intermittent) and plantar fasciitis (slight/intermittent) to the Physical Evaluation Board (PEB) as medically unacceptable IAW AR 40-501. The PEB adjudicated LBP and plantar fasciitis, bilateral conditions as unfitting, rated 10% and 0%, respectively, with application of the Veterans’ Administration Schedule for Rating Disabilities (VASRD) and the US Army Physical Disability Agency (USAPDA) pain policy. The CI made no appeals, and was medically separated with a 10% combined disability rating.

CI CONTENTION: “Medical condition has worsened and other related issues where not included in physical disability review.” He elaborates no specific contentions regarding rating or coding and mentions no additionally contended conditions.

RATING COMPARISON:

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| **Service IPEB – Dated 20050802** | **VA (2 Mo. After Separation) – All Effective 20050908\*** |
| **Condition** | **Code** | **Rating** | **Condition** | **Code** | **Rating** | **Exam** |
| LBP | 5299-5242 | 10% | DDD Lumbar Spine | 5242 | 10% | 20051122 |
| Plantar Fasciitis, Bilat. | 5399-5310 | 0% | Bilateral Plantar Fasciitis | 5299-5278 | 10% | 20051122  |
| ↓No Additional MEB/PEB Entries↓ | Bipolar Disorder | 9432 | 50% | 20051122 |
| Left Elbow…Bursitis | 5019 | 10% | 20051122 |
| Sarcoidosis | 6699-6600 | 10% | 20051122 |
| 0% x 3/Not Service Connected x 1 | 20051102 |
| **Combined: 10%** | **Combined: 70%\*** |

\*VA original rating was 0% combined; VA ratings changed by a missing VARD prior to the VARD of 20080211; Gout (5017) at 20% added effective 20070326 (combined 80%)

ANALYSIS SUMMARY: The Disability Evaluation System (DES) is responsible for maintaining a fit and vital fighting force. While the DES considers all the service member's medical conditions, compensation can only be offered for those 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 conditions for the purpose of adjusting the veteran’s disability rating should the degree of impairment vary over time. The Board acknowledges that service treatment records, VA rating and clinic records were referenced, but not available in the evidence. They could not be located after the appropriate inquiries. Further attempts at obtaining the relevant documentation would likely be futile and introduce additional delay in processing the case. The missing evidence will be referenced below in relevant context and it is not suspected the missing evidence would significantly alter the Board’s recommendations.

Back Condition. There were three goniometric range of motion (ROM) evaluations in evidence which the Board weighed in arriving at its rating recommendation. These exams are summarized in the chart below.

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| Goniometric ROM - Thoracolumbar | MEB ~ 4 Mo. Pre-Sep(20050524) | PT ~ 3 Mos Pre-Sep(20050622) | VA C&P ~ 2 Mo. After-Sep(20051122) |
| Flex (0-90) | 65⁰ | (58, 64, 61) 60⁰ | 90⁰ |
| Ext (0-30) | 15⁰ | 15⁰ | Not Measured |
| R Lat Flex (0-30) | 20⁰ | 20⁰ | 30⁰ |
| L Lat Flex 0-30) | 20⁰ | 20⁰ | 30⁰ |
| R Rotation (0-30) | 20⁰ | 20⁰ | 35⁰ (30⁰) |
| L Rotation (0-30) | 20⁰ | 20⁰ | 35⁰ (30⁰) |
| COMBINED (240) | 160⁰ | 155⁰ | unk⁰ |
| Comment | No tenderness; motor/ sensory intact; MRI abn | Trunk motion vastly limited by pain and tightness; moderate weakness reduced in trunk flexors | Multiple gait pattern, no spasm, tenderness, or weakness; motor/sensory intact |
| §4.71a Rating | 10% | 20% | 0% (VA 10%) |

The magnetic resonance imaging (MRI) in August 2002 found mild joint space narrowing at the L4-5 level. A repeat MRI in October 2003 indicated very mild spondylosis. The CI was followed in physical therapy for recurrent LBP and underwent another MRI in July 2004 which noted a small L5-S1 disk herniation. Subsequent MRIs continued to have findings of broad based bulge at L4-5 with broad based right sided protrusion at L5-S1. The MEB examination four months prior to separation documented that the CI had tried and failed back class; heat and stretching exercises; physical therapy; and non steroidal anti inflammatory drugs. The CI had daily pain on a scale of 3-4/10, aggravated by prolonged standing, prolonged sitting or activities that required him to put on his pants to dress. Occasional pain radiated down the side of his leg without numbness or tingling. Pain, however, was relieved by rest. The examiner noted that the CI was not a surgical candidate. The commander’s comments stated that the CI was incapable of prolonged standing and heavy lifting due to his chronic LBP. The physical therapy examination noted progressive LBP worsening and limited by pain and tightness along with moderate weakness reduced in trunk flexor muscles. The VA compensation and pension (C&P) examination two months post-separation was essential normal, without any objective neurological findings and no neuro motor or sensory limitations. A second VA C&P exam eight months post-separation noted an electrophysiologic test done in March 2006 was normal and the examiner noted that there was no weakness or changes in sensation of the lower extremities. There was pain radiating to the right buttock to right posterolateral thigh to the right anterolateral leg to the left side, with positive tenderness elicited on L4-5 and L5-S1 lumbar paravertebral muscles. A diagnosis of right lumbar radiculopathy was made; however, there was no report of weakness of lower extremities or sensation changes in the lower extremities.

The CI’s pain symptoms are considered under the General Rating Formula for Diseases of the Spine as this criterion includes “with or without symptoms such as pain (whether or not it radiates), stiffness or aching in the area of the spine affected by residuals of injury or disease.” There were no findings of motor or sensory abnormalities on any of the exams. Board precedent is that a functional impairment tied to fitness is required to support a recommendation for addition of a peripheral nerve rating at separation. The pain component of a radiculopathy is subsumed under the general spine rating as specified in §4.71a. The sensory component in this case has no functional implications and there was no motor component in this case. Since no evidence of functional impairment exists in this case, the Board cannot support a recommendation for additional rating based on nerve impairment.

The Board must decide which exam had the higher probative value between the MEB, physical therapy or VA exams. The MEB exam was the basis for the narrative summary (NARSUM) and accomplished by the NARSUM provider four months pre-separation. The physical therapy exam was one month after the MEB exam (three months pre-separation) and provided a very detailed exam with multiple ROM repetitions; whereas the VA exam was most proximate to separation at two months post-separation provided very scant detail. The Board adjudged that the physical therapy exam three months pre-separation had the highest probative value for providing a separation rating. The PEB 5299-5242 (analogous) and the VA 5242 coding are rated under the same VASRD spine criteria. After due deliberation, considering all of the evidence, the Board recommends a separation rating of 20% coded 5299-5242.

Bilateral Plantar Fasciitis. An MRI in October 2004 demonstrated mild to moderate reactive changes in both plantar calcaneal (bones), more severe on the left that the right, suggestive of stress reactions/plantar fasciitis. A bone scan in January 2005 found mild to moderate reactive changes in the plantar area suggestive of plantar fasciitis rather than fractures. The MEB examination four months prior to separation documented that the CI had chronic bilateral feet pain from heel stress fractures in 2001, despite having worn a cast for six weeks. The chronic bilateral pain secondary to plantar fasciitis was aggravated by prolonged standing, walking and marching. The CI could heel/toe walk without difficulty. Exam documented tenderness in the heel and over the plantar area. The CI was given a P2/L3 profile for LBP, sarcoidosis and plantar fasciitis in July 2005. The VA C&P examination post-separation noted that there was some tenderness over the right foot calcaneous, without limitation of motion along with normal right and left foot x-rays. There was normal ankle dorsiflexion and plantar flexion and the examiner opined that motion was essentially normal. The VA podiatry exam eight months post-separation noted that standing for any time period greater that 15 minutes caused severe bilateral foot pain, along with an antalgic gait, painful arches in the center of the arches bilaterally and a valgus deformity of two degrees with bowing in the Achilles tendon.

The PEB and VA chose different coding options for the CI’s bilateral foot condition. The PEB combined the left and right foot conditions into a single unfitting condition coded analogously to 5310 (muscle coding) and rated 0% (slight). The PEB most likely relied on the USAPDA pain policy as indicated by their disability description, but may have relied on AR 635.40 (B.24f) for not applying separately VASRD codes for each foot IAW VASRD §4.73. The VA considered the CI’s bilateral foot condition (bilateral plantar fasciitis) for foot disability IAW VASRD §4.71 (musculoskeletal system) using analogous coding to 5278, claw foot; acquired. Although the initial rating determination was a bilateral rating of 0%, the VA corrected that rating to 10% via a missing VARD prior to 11 February 2008. Of note, the 5278 coding specifically includes the bilateral condition in a single code.

The Board deliberated if the CI’s bilateral foot condition was closer to the 10% or 0% disability level under analogous coding of 5276, 5278 or 5310. There appeared to be some improvement by the VA post-separation exam. Given the documented tenderness, abnormal imaging, and frequency of complaints and treatment, the Board adjudged that the CI’s bilateral foot condition more closely reflected the 10% disability picture analogously to 5276 (which includes “bilateral” in the single rating criteria and coding).

After due deliberation, considering all of the evidence and mindful of VASRD §4.3 (reasonable doubt), the Board recommends a separation rating of 10% for the bilateral plantar fasciitis condition, coded 5299-5276.

Remaining Conditions. The other condition identified in the DES file was sarcoidosis. The CI was diagnosed in September 2000. The MEB NARSUM revealed the CI had hemorrhoid pain and periodic exacerbations of musculoskeletal joint problems in both his knee and elbow. There were no complaints of pulmonary or other symptoms. At the time of examination, he was not undergoing treatment. His last treatment was recorded in 2004. Several additional non-acute conditions or medical complaints were also documented. Sarcoidosis was not occupationally active during the MEB period; it was profiled, but was not implicated in the commander’s statement. This condition was reviewed by the action officer and considered by the Board. It was determined that none of these conditions could be argued as unfitting and subject to separation rating. Additionally, bipolar disorder, gout, left elbow olecranon bursitis, superficial veins prominent, spleen problem 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.

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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 LBP condition and IAW VASRD §4.71a, the Board unanimously recommends a rating of 20% coded 5299-5242. In the matter of the bilateral plantar fasciitis condition, the Board unanimously recommends a rating of 10% coded 5299-5276 IAW VASRD §4.71a. In the matter of the sarcoidosis, 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.

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RECOMMENDATION: The Board recommends that the CI’s prior determination be modified as follows and that the discharge with severance pay be recharacterized to reflect permanent disability retirement, effective as of the date of his prior medical separation:

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| **UNFITTING CONDITION** | **VASRD CODE** | **RATING** |
| Low Back Pain | 5299-5242 | 20% |
| Bilateral Plantar Fasciitis | 5299-5276 | 10% |
| **COMBINED** | **30%** |

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The following documentary evidence was considered:

Exhibit A. DD Form 294, dated 20, w/atchs.

Exhibit B. Service Treatment Record.

Exhibit C. Department of Veterans' Affairs Treatment Record.

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 President

 Physical Disability Board of Review



