RECORD OF PROCEEDINGS

PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXXXXXXXXXXX BRANCH OF SERVICE: ARMY

CASE NUMBER: PD201000132 SEPARATION DATE: 20041020

BOARD DATE: 20110510

SUMMARY OF CASE: Data extracted from the available evidence of record reflects that this covered individual (CI) was an Army National Guard SGT/E-5 (31U, Signal Support Systems) medically separated from the Army in 2004. The medical basis for the separation was chronic right groin pain. The pain was a persistent complaint after a right inguinal repair (by Service) in 2002. The CI underwent a subsequent surgical exploration and revision, as well as an ilioinguinal neurectomy, in attempts to provide surgical remedy. Despite these interventions, rehabilitation and medications, he did not respond adequately to perform within his Military Occupational Specialty (MOS) or meet physical fitness standards. He was consequently issued a permanent P3 profile and referred for a Medical Evaluation Board (MEB). Post operative neuropathic pain in the right groin was forwarded to the Physical Evaluation Board (PEB) as medically unacceptable IAW AR 40-501. No other conditions were listed on the MEB’s DA Form 3947 submission. Other conditions included in the narrative summary (NARSUM) and Disability Evaluation System (DES) file are addressed below. The Informal PEB adjudicated the right groin condition as unfitting, rated at 0% citing criteria from the Veterans’ Administration Schedule for Rating Disabilities (VASRD). A Formal PEB (FPEB) upheld the informal decision and forwarded the case to the US Army Physical Disability Agency (USAPDA). The USAPDA concluded that the case had been properly adjudicated and the CI was thus medically separated with a 0% disability rating.

CI CONTENTION: The CI states, “Based on the conclusion of the (PEB): Postoperative Neuropathic Pain in the Right Groin result in interference with satisfactory performance of duty AR 40-501, paragraph 3-41, E1 and 2. It states (2) the individual’s health or well being would be compromised if he or she remains in the military service. Due to recent events with the Department of Veterans Affairs (service connected disability determination) my records provided enough evidence to grant a 10% disability rating for neuropathic pain, right groin”. He mentions no additionally contended conditions.

RATING COMPARISON:

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Service FPEB – Dated 20040624** | | | **VA (6 Wk. after Separation) – All Effective 20041021** | | | |
| **Condition** | **Code** | **Rating** | **Condition** | **Code** | **Rating** | **Exam** |
| Chronic Right Groin Pain | 8799-8730 | 0% | R Groin Neuropathic Pain | 7338-8730 | 0%\* | 20041213 |
| ↓No Additional MEB/PEB Entries↓ | | | R Shoulder Impingement | 5019-5201 | 30% | 20041213 |
| R Great Toe Bunionectomy | 5280 | 10% | 20041213 |
| **Combined: 0%** | | | **Combined: 40%** | | | |

\* Increased to 10% (same code), effective 20061020 and citing evidence from 2006.

ANALYSIS SUMMARY: The Board notes that the CI’s contended rating for his right groin condition references a VA rating decision based on evaluations performed over a year after separation. The Board’s operative instruction, DoDI 6040.44, specifies a 12 month interval for special consideration to VA findings. This does not mean that later VA evidence is disregarded, but the Board’s recommendations are directed to the severity and fitness implications of conditions at the time of separation. In this circumstance, therefore, the evidence from the service record and the immediate post-separation VA evaluation are assigned significantly more probative value as a basis for the Board’s recommendations.

Right Groin Condition. The NARSUM examiner noted constant pain in the right groin, exacerbated by various activities and associated with painful erections. The physical exam documented tenderness over the incision site, but no other abnormalities or positive neurologic findings. The examiner concluded, "[CI] is suffering from neuropathic pain most probably of the genitofemoral nerve, although the ilioinguinal nerve and iliohypogastric nerve may be involved as well." At the VA Compensation and Pension (C&P) exam soon after separation, the examiner recorded daily pain with flares five to six times per day and painful ambulation limited to one mile. The exam documented normal gait and posture, although toe and tandem walking were painful. Tenderness was noted at the hernia scar and in the inguinal canal. No hernia was detected. The remainder of the exam was unremarkable other than some distal mild sensory findings. The only new features quoted in the 2006 VA rating decision which raised the rating to 10% under the new code were: “you are awakened several times nightly due to right groin pain … marked tenderness to palpation deep in the inguinal ring … recurrence of the hernia was not described.”

The Board directs its attention to its rating recommendation based on the above evidence. The PEB and VA coding variations both defaulted to rating under 8730 for ilioinguinal neuralgia, although the VA also added a 7338 (inguinal hernia) prefix. Rating under the peripheral nerve code is the optimal VASRD approach for this case and accurately captures the rated disability; and, 7338 criteria yield a non-compensable rating in this instance. The applicable peripheral nerve code for this case and relevant VASRD directions are excerpted below.

**Ilio-inguinal nerve.**  **8530** Paralysis of: **8630** Neuritis **8730** Neuralgia

Severe to complete----10

Mild or moderate--------0

**§4.123 Neuritis, cranial or peripheral.** Neuritis … is to be rated on the scale provided for injury of the nerve involved, with a **maximum equal to severe**, incomplete, paralysis.

**§4.124 Neuralgia, cranial or peripheral.** Neuralgia … is to be rated on the same scale, with a **maximum equal to moderate** incomplete paralysis.

It is easily ascertained from the excerpt that for rating 8730 (neuralgia) as per the PEB and VA, §4.124 applies and mandates the 0% rating achieved. The Board considered, given the actual severity and associated disability in evidence, the applicability of VASRD §4.7 (higher of two evaluations) which would favor a rating under the 8630 neuritis code. This would attach §4.124 and promote a 10% rating (assuming ‘severe’ fairly characterizes the symptoms in evidence). The action officer opined that there was no clinical distinction favoring neuralgia over neuritis as a reasonable description of the pathology in this case. The sensory findings suggested neuritis as opposed to neuralgia which should be confined to pain in the nerve distribution. After due deliberation, considering all of the evidence and mindful of VASRD §4.3 (reasonable doubt) and IAW DoDI 6040.44 4.b (fair and equitable), the Board recommends a separation rating of 10% for the right groin pain condition, coded 8630.

Remaining Conditions. Other conditions identified in the DES file were right shoulder impingement and a prior right great toe bunionectomy. Several additional non-acute conditions or medical complaints were also documented. None of these conditions were clinically significant during the MEB period, carried attached profiles, or were implicated in the commander’s statement. 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. No other conditions were service connected with a compensable rating by the VA within twelve 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. The Board did not surmise from the record or PEB ruling in this case that any prerogatives outside the VASRD were exercised. In the matter of the right groin condition, the Board unanimously recommends a rating of 10% coded 8630 IAW VASRD §4.123. In the matter of the right shoulder and right great toe conditions, the Board unanimously agrees that it cannot recommend any findings of unfit for additional rating at separation. 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** |
| Ilioinguinal Neuritis | 8630 | 10% |
| **COMBINED** | **10%** |

The following documentary evidence was considered:

Exhibit A. DD Form 294, dated 20100302, w/atchs.

Exhibit B. Service Treatment Record.

Exhibit C. Department of Veterans' Affairs Treatment Record.

Deputy Director

Physical Disability Board of Review

