RECORD OF PROCEEDINGS

PHYSICAL DISABILITY BOARD OF REVIEW

NAME: BRANCH OF SERVICE: air force

CASE NUMBER: PD1000321 SEPARATION DATE: 20090120

BOARD DATE: 20111018

SUMMARY OF CASE: Data extracted from the available evidence of record reflects that this covered individual (CI) was an active duty SSGT/E-5 (6F071, Financial Management and Comptroller Craftsman) medically separated for chondromalacia patella (CMP) of right knee*.* The CI started to experience right knee pain in 2003 after an injury during a squadron softball game. She did not respond adequately to treatment and was determined to not be worldwide qualified although she was able to perform within her Air Force specialty. She was placed on limited duty and underwent a Medical Evaluation Board (MEB). Chondromalacia was forwarded to the Physical Evaluation Board (PEB) as medically unacceptable IAW AFI 48-123. Other conditions included in the Disability Evaluation System (DES) packet will be discussed below. The Informal PEB (IPEB) adjudicated the CMP right knee with complex regional pain syndrome (CRPS) as unfitting rated 20% disability IAW Veterans Administration Schedule for Rating Disabilities (VASRD). The CI appealed to the Formal PEB which upheld the IPEB adjudication. She made no further appeals and was then medically separated with a 20% disability rating.

CI CONTENTION: “I was given a rating of 20% disability at the FPEB. According to the VA, the disability rating for my knee alone (which is the reason I was discharged) is 40% and my overall VA rating is 60%.” She also lists endometriosis.

RATING COMPARISON:

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| **Service FPEB – Dated 20081031** | **VA (5 Mo. After Separation) – All Effective Date 20090121** |
| **Condition** | **Code** | **Rating** | **Condition** | **Code** | **Rating** | **Exam** |
| Chondromalacia R Knee w/ Complex Regional Pain Synd | 5099-5014 | 20% | Chondromalacia R Knee | 5299-5258 | 10% | 20090625 |
| ↓No Additional MEB/PEB Entries↓ | Endometriosis | 7629 | 30% | 20090625 |
| Scar Right Knee | 7804 | 20% | 20090625 |
| Left Knee Pain | 5261 | 10% | 20090625 |
| 0% x 4 / Not Service Connected x 6 | 20090625 |
| **Combined: 20%** | **Combined: 60%** |

ANALYSIS SUMMARY: The Board notes the CI’s contention was that the VA awarded 40% for the knee alone. The VA actually awarded 10% for the right knee condition (meniscal tear, plica syndrome and CMP). The VA also awarded 20% for post-surgical scars of the right knee. They also awarded 10% for left knee patellofemoral syndrome (PFS) and 30% for endometriosis. The Board’s authority resides in evaluating the fairness of DES fitness decisions and rating determinations for disability at the time of separation only for unfitting conditions. Moreover, the Board notes that the mere presence of a diagnosis is not sufficient to render the condition unfitting. While the DES considers all of the service member's medical conditions, compensation can only be offered for those medical 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 Veterans Affairs, operating under a different set of laws (Title 38, United States Code), is empowered to periodically re-evaluate veterans for the purpose of adjusting the disability rating should the degree of impairment vary over time. By precedent, the Board does not recommend separation rating for scars unless their presence imposes a direct limitation on fitness.

Chondromalacia Patella Right Knee. In August 2005, the CI noted bilateral knee pain, right greater than left. Over the next three years, she had extensive treatment, including joint injections of steroids, physical therapy and surgeries. She had a right knee arthroscopy with synovectomy of the medial and patellofemoral compartments and chrondroplasty of the medial femoral condyle on 5 December 2005. On 16 October 2006, she had a second right knee arthroscopy, with debridement of a mild chondral irregularity of the patella and a lateral release. The menisci and cruciate ligaments were intact. The third arthroscopy for right knee chrondroplasty of the patella and a focusing-type anterior tibial tubercle osteotomy was performed on 2 January 2008. Lachman’s testing was noted to have a firm endpoint and the menisci and cruciate ligaments were again found to be intact. At a follow-up on 3 June 2008, five months after the third surgery, she was noted to have hypersensitivity to light touch over the anterior aspect of the knee, suggestive of CRPS and was started on Lyrica, which was unsuccessful. She had an equivocal response to a lumbar sympathetic block, to Trileptal, and to a Lidoderm patch. Magnetic resonance imaging (MRI) revealed patellar subchrondral reactive change medially and laterally, with intact menisci and ligaments. She was thought to have some degree of post-traumatic arthritis and progressive CMP in addition to the CRPS. On 10 December 2008, six weeks before separation, she had a fourth arthroscopy with patellar lateral facet and central ridge chondroplasty and removal of tibial tubercle hardware. Grade III and IV chondral change of the lateral facet central ridge of the patella was noted. The menisci and cruciates were intact, as were the chrondral surfaces of the medial and lateral femoral condyles. At a 9-day post-op follow up appointment, active flexion was 130 degrees and extension “good.” The MEB exam was done on 11 August 2008, over five months prior to separation and four months prior to the fourth arthroscopy. No edema was noted and no other exam documented; attention was directed to the attached orthopedic notes.

The VA compensation and pension (C&P) exam was accomplished 25 June 2009, over five months after separation. The CI noted that the bone protruded on the right compared to the left and felt like it popped out of place when walking, but it had not required a reduction. She was using a knee brace and cane. She also complained of locking, numbness and discoloration daily, with feelings of hot and cold. On exam, her shoes were noted to have minimal, symmetric medial wear. No cyanosis, clubbing, or edema was noted. There was no temperature difference between the lower extremities or hyperesthesia. Muscle mass and tone were normal. Sensation was diminished in the right proximal half of the left from mid-shin to anterolateral proximal leg. Mild crepitation and tenderness to patellar pressure were noted. No instability was noted. An x-ray of the right knee was normal other than surgical hardware tracks of the proximal tibia. Three post-surgical scars were noted to be sore to light touch, but otherwise unremarkable. Three goniometric exams were proximate to separation.

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| Goniometric ROM –L/R Knee | MEB ~ 5 Mo. Pre-Sep  | Ortho ~ 1 Mo. Pre-Sep | VA C&P ~ 5 Mo. After-Sep |
| Flexion (140⁰ normal) | (139, 140, 140) 140⁰ | 130⁰ | 140⁰ |
| Extension (0⁰ normal) | 0⁰ (X3) | 0⁰ | 0⁰ |
| Comment | No comment on pain | Nine days post-op | Pain with flexion and extension |
| §4.71a Rating\* | 10% | 10% | 10% |

The Board noted that the PEB rated the CMP right knee with CRPS at 20% coded 5099-5014, (analogous to osteomalacia). The VA rated the right knee at 10% for a meniscal tear, plica syndrome, CMP with tendonitis coded 5299-5258 (analogous to dislocated meniscal cartilage). As noted, the menisci were normal on multiple arthroscopic exams and on MRI. The VA also rated the scars at 20% coded 7804 for tenderness. No evidence was found in the record that the scars impaired the CI’s fitness for duty. By precedent, the Board does not rate scars without tie to fitness. The Board determined that the rating for the right knee is 10% for painful motion based on the orthopedic exam proximate to separation and the C&P exam after separation. The Board also considered alternate coding to determine whether a higher rating could be supported, but with normal meniscal and ligament exams, no evidence of instability on exam, and full ROM, no coding of the knee offered a higher disability rating. CRPS with mild sensory loss would rate at 0% if coded as the external cutaneous nerve, or 10% if coded as the external popliteal nerve. Neither option offers an increased rating to the CI beyond that granted by the PEB. After due deliberation in consideration of the totality of the evidence, the Board concluded that there was insufficient cause to recommend a change from the PEB fitness adjudication for the right knee condition.

Other Contended Condition. The CI requested a rating for endometriosis in her contention. There is no evidence that this was profiled, determined to be unfitting, or noted by the commander as impairing duty. Endometriosis was also 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. After due deliberation in consideration of the totality of the evidence, the Board concluded that there was insufficient cause to recommend a change from the PEB fitness adjudication for the endometriosis condition.

Remaining Conditions. Other DES conditions included a left inguinal hernia repair and scar as well as a history of cervical dysplasia. The periodic health assessment documented sleep issues, bleeding gums, and headaches. None of these conditions were clinically significant during the MEB period, none carried attached profiles, and none 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. The VA also noted left PFS, headaches, adjustment disorder, myopia, bilateral hearing loss, tinnitus, gastroenteristis and a history of lacerated bladder. These 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 chrondromalacia of the right knee, the Board recommends no recharacterization of the PEB adjudication. In the matter of the left knee, endometriosis or any other condition 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 recharacterization of the CI’s disability and separation determination, as follows:

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| **UNFITTING CONDITION** | **VASRD CODE** | **RATING** |
| CMP Right Knee with CRPS | 5099-5014 | 20% |
| **COMBINED** | **20%** |

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The following documentary evidence was considered:

Exhibit A. DD Form 294, dated 20100406, w/atchs.

Exhibit B. Service Treatment Record.

Exhibit C. Department of Veterans' Affairs Treatment Record.

 President

 Physical Disability Board of Review

SAF/MRB

1500 West Perimeter Road, Suite 3700

Joint Base Andrews MD 20762

 Reference your application submitted under the provisions of DoDI 6040.44 (Section 1554, 10 USC), PDBR Case Number PD-2010-00321.

 After careful consideration of your application and treatment records, the Physical Disability Board of Review determined that the rating assigned at the time of final disposition of your disability evaluation system processing was appropriate. Accordingly, the Board recommended no re-characterization or modification of your separation with severance pay.

 I have carefully reviewed the evidence of record and the recommendation of the Board. I concur with that finding and their conclusion that re-characterization of your separation is not warranted. Accordingly, I accept their recommendation that your application be denied.

 Sincerely,

Director

Air Force Review Boards Agency

Attachment:

Record of Proceedings