RECORD OF PROCEEDINGS

PHYSICAL DISABILITY BOARD OF REVIEW

NAME: BRANCH OF SERVICE: AIR FORCE

CASE NUMBER: PD1000378 SEPARATION DATE: 20010918

BOARD DATE: 20110318

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SUMMARY OF CASE: Data extracted from the available evidence of record reflects that this covered individual (CI) was an active duty Senior Airman (2A531C, Aerospace Maintenance Journeyman), medically separated from the Air Force in 2001. The medical basis for the separation was chronic bilateral knee pain. Conservative management with medications, physical therapy and patellar knee sleeves was inadequate. The CI was unable to perform his duties and underwent a Medical Evaluation Board (MEB). Bilateral anterior knee pain was the only condition forwarded to the Physical Evaluation Board (PEB) as medically unacceptable IAW AFI 48-123. Additional conditions supported in the Disability Evaluation System (DES) packet were not forwarded for PEB adjudication. The CI made no appeals and was medically separated with a 10% combined disability rating.

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CI CONTENTION: The CI states: “At the time of discharge, I also had other issues. Please see enclosed statement.” “I was discharged as a result of knee issues. However, I was also suffering from high blood pressure and hyperthyroidism.” He additionally includes his VA rating decision letter.

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RATING COMPARISON:

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| --- | --- | --- | --- | --- | --- | --- | --- |
| **Service PEB – Dated 20010716** | | | **VA (5 Mo. After Separation) – Effective Date 20010919** | | | | |
| **Condition** | **Code** | **Rating** | **Condition** | | **Code** | **Rating** | **Exam** |
| Bilateral chronic knee pain | 5003-5299 | 10% | Left Knee Chondromalacia | 5299-5257 | | 10% | 20020204 |
| Right Knee Chondromalacia | 5299-5257 | | 0%\* | 20020204 |
| ↓No Additional MEB/PEB Entries↓ | | | Hypertension | 7101 | | 10% | 20020204 |
| Allergic Rhinosinusitis | 6522 | | 0% | 20020204 |
| Eczema\*, Bil Hip Pain, Bil Foot/heel pain, Left shoulder - NSC | | | | |
| **Final Combined: 10%** | | | **Total Combined: 20%\*** | | | | |

\*R knee to 10% effective 20030528 (combined 30%); Hyperthyroidism (7900) added at 60% effective 20030721 (combined 70%) with later changes

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ANALYSIS SUMMARY: The Board acknowledges the sentiment expressed in the CI’s application, i.e., that there should be additional disability assigned for his hypertension and hyperthyroid conditions and for the significant impairment from his service incurred musculoskeletal conditions which have worsened over time. 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 incurred in service or resulting in medical separation. This role and authority is granted by Congress to the Veterans Administration. The Board’s authority resides in evaluating the fairness of DES fitness decisions and rating determinations for disability at the time of separation. The Board also notes that there was not a separate entry for an exam for the MEB other than in the narrative summary (NARSUM). While a separation exam was scheduled, there is no record that it was accomplished. There is an undated note (probably o/a 14 August 2001, a week prior to the appointment) indicating that the CI was clear for separation.

Bilateral Chronic Knee Pain. This was the single unfitting diagnosis for separation. The CI denied any history of trauma to his knees. At the MEB exam, seven months prior to separation, the CI denied any locking, clicking or giving way. He complained of bilateral anterior knee pain, left worse than right, aggravated by stair climbing, sitting in a cramped environment and after vigorous activity. Conservative management with anti-inflammatory medications, glucosamine chondroitin, activity modification, physical therapy (PT) and knee sleeves was inadequate. He was noted to have no swelling, flexion to 130 degrees on range of motion (ROM) testing, no joint line tenderness, and negative McMurrays, Apleys, anterior and posterior Drawers, Lachmans, and pivot shift. Glide and tilt were normal, but there was a positive patellar grind test, left > right. Valgus and varus stress revealed no laxity. The quadriceps and patellar tendons showed no obvious swelling or discomfort on exam. A previous knee X-ray series was normal, without any degenerative changes. A magnetic resonance imaging of the left knee was formally read as negative; however, the NARSUM indicated a civilian surgeon considered it indicative of a small meniscal tear and recommended surgery (which was declined). At the VA compensation and pension exam, done four and a half months after separation, the findings were essentially unchanged, except for a slightly positive anterior Drawers test on the left. No ROM was provided. While the PEB and VA coded the knees differently, 5003-5299 and 5299-5257, and the VA rated them separately, the combined 10% rating was identical. Both were analogous codes. In the matter of the bilateral chronic knee pain condition, the Board recommends that it be rated for two separate unfitting conditions, with consideration of the VA Schedule for Rating Disabilities (VASRD) §4.3 (reasonable doubt) and conceding VASRD §4.59 (painful motion), as follows: chronic left knee pain coded 5003 and rated 10% and chronic right knee pain coded 5003 and rated 0%, both IAW the VASRD §4.71a.

Other Contended Conditions. The CI’s application asserts that compensable ratings should be considered for hypertension and hyperthyroidism. Labile hypertension was noted in the record numerous times. Medications were discussed, but not started as the CI was able to control his hypertension with lifestyle modification. The blood pressure on the MEB physical was normal. Hyperthyroidism was not identified 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. However, the Board did examine the record to determine if the diagnosis was possibly missed while on active duty. It noted that hyperthyroidism was diagnosed well after separation. Although the VA attributes an episode of anxiety to early manifestations of thyroid disease, the CI was diagnosed with a panic attack at the time and complained of being chilled (typical of hypothyroidism). On the discharge exam, blood pressure, heart rate and general exam were all normal. An erythrocyte sedimentation rate was normal. The CI’s weight was stable at the time of the MEB exam (despite having been on weight management) and actually increased 28 pounds between the PEB and VA exams. The record does not support unrecognized hyperthyroidism while on active duty. Both of these conditions were reviewed by the action officer and considered by the Board. There was no evidence for concluding that either of these conditions interfered with duty performance to a degree that could be argued as unfitting. The Board determined that none of the stated conditions were subject to disability rating. The Board therefore has no reasonable basis for recommending any additional unfitting conditions for separation rating.

Remaining Conditions. Seasonal allergic rhinitis and recurrent left shoulder dislocation were identified in the DES file. Neither was clinically significant during the MEB period, carried an attached profile or was implicated in the commander’s statement. This was reviewed by the action officer and considered by the Board. It was determined that neither could be argued as unfitting and subject to separation rating. Additionally, eczema, bilateral hip pain, and bilateral foot/heel pain 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 bilateral chronic knee pain condition, the Board unanimously recommends a change in the VASRD coding IAW VASRD §4.71a as follows: chronic left knee pain coded 5003 and rated 10%, and chronic right knee pain coded 5003. By a 2:1 vote, the Board recommended rating the right knee at 0%. The minority voter favored a 10% rating for the right knee, but did not submit a minority opinion. The PEB combined rating of 10% is unchanged. In the matter of the hypertension, hyperthyroidism, seasonal allergic rhinitis and recurrent left shoulder dislocation 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, effective as of the date of his prior medical separation.

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| --- | --- | --- | --- |
| **UNFITTING CONDITION** | | **VASRD CODE** | **RATING** |
| Left chronic knee pain | | 5099-5003 | 10% |
| Right chronic knee pain | | 5099-5003 | 0% |
| **COMBINED (Incorporating BLF)** | | **10%** |

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The following documentary evidence was considered:

Exhibit A. DD Form 294, dated 20100402, w/atchs.

Exhibit B. Service Treatment Record.

Exhibit C. Department of Veterans' Affairs Treatment Record.

Deputy Director

Physical Disability Board of Review

SAF/MRB

1535 Command Drive, Suite E-302

Andrews AFB, MD 20762-7002

Reference your application submitted under the provisions of DoDI 6040.44 (Section 1554, 10 USC), PDBR Case Number PD-2010-00378.

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 not appropriate under the guidelines of the Veterans Administration Schedule for Rating Disabilities. Accordingly, the Board recommended modification of your assigned disability rating without re-characterization 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, accept their recommendation and direct that your records be corrected as set forth in the attached copy of a Memorandum for the Chief of Staff, United States Air Force. The office responsible for making the correction will inform you when your records have been changed.

Sincerely,

Director

Air Force Review Boards Agency

Attachments:

1. Directive

2. Record of Proceedings

cc:

SAF/MRBR

DFAS-IN

PDBR PD-2010-00378

MEMORANDUM FOR THE CHIEF OF STAFF

Having received and considered the recommendation of the Physical Disability Board of Review and under the authority of Section 1554, Title 10, United States Code (122 Stat. 466) and Section 1552, Title 10, United States Code (70A Stat. 116) it is directed that:

The pertinent military records of the Department of the Air Force relating xxxxxxxxxxxxxx, be corrected to show that the diagnosis in his finding of unfitness was Left Chronic Knee Pain, VASRD code 5099-5003, rated at 10% and Right Chronic Knee Pain, VASRD code 5099-5003, rated at 0% with a combined total rating of 10%; rather than Bilateral Chronic Knee Pain, VASRD Code 5003-5299, rated at 10%.

Director

Air Force Review Boards Agency