RECORD OF PROCEEDINGS

PHYSICAL DISABILITY BOARD OF REVIEW

NAME: BRANCH OF SERVICE: air force

CASE NUMBER: PD1000474 SEPARATION DATE: 20060306

BOARD DATE: 20110727

SUMMARY OF CASE: Data extracted from the available evidence of record reflects that this covered individual (CI) was an active duty Senior Airman (1A2X1, C5 Loadmaster) medically separated for asthma*.* He did not respond adequately to treatment and was unable to perform within his Air Force Specialty (AFS) or to meet physical fitness standards. He was issued a P4 profile and underwent a Medical Evaluation Board (MEB). Asthma 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 asthma condition as unfitting, rated 10% and seasonal allergic rhinitis (SAR) as a category II condition with application of the DoDI 1332.39 and Veterans’ Administration Schedule for Rating Disabilities (VASRD), respectively. The CI initially requested and then waived an appeal to the Formal PEB. He was medically separated with a 10% combined disability rating.

CI CONTENTION: “Unable to continue military career.” He elaborates no specific contentions regarding rating or coding and mentions no additionally contended conditions.

RATING COMPARISON:

|  |  |
| --- | --- |
| **Service IPEB – Dated 20051213** | **VA (10 Mo. After Separation) – All Effective Date 20060307** |
| **Condition** | **Code** | **Rating** | **Condition** | **Code** | **Rating** | **Exam** |
| Asthma | 6602 | 10% | Asthma | 6602 | \* | No Show |
| Seasonal Allergic Rhinitis | CAT II | Not Addressed By VA |
| **Final Combined: 10%** | **Total Combined: 0%** |

\*The VA could not rate condition as CI did not appear for examination.

ANALYSIS SUMMARY:

Asthma. One year prior to separation the CI had recurrent chest tightness and shortness of breath for the previous two to three years. Triggers included cats, grass, exercise, and seasonal aggravation. He was diagnosed with moderate, persistent asthma based upon a positive bronchodilator response, to methacholine challenge, and due to persistent symptoms, despite therapy. Pulmonary function testing (PFT) is summarized in the chart below:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| PFTs: Separation - 20060306 | 200506247.5 mo Pre- Sep | 200509125.5 mo pre-sep | 200510035 mo pre-sep | 200511183.5 mo pre- sep |
| FEV1  | 92% | 94% | 85% | 92% |
| Post bronchodialtor | 99% | - | - | - |
| FEV1/FVC | 67% | 84% | 79% | 71% |
| Post bronchodilator | 75% | - | - | - |
| Medication | PRN | Daily | Daily | Daily |
| §4.97 Rating | 30% | 30% | 30% | 30% |

The MEB narrative summary (NARSUM) (undated, but inclusive of PFTs dated 3 Oct 2005) indicates that the CI was on daily, inhaled anti-inflammatory and bronchodilator medications as well as a rescue inhaled bronchodilator. The examiner noted that there was a good clinical response to advair. The PEB coded the CI as 6602, asthma, and rated him at 10%. The VA granted service connection, but could not assign a disability rating as the CI did not show up for the compensation and pension (C&P) exam. For daily inhalational or oral bronchodilator therapy, a disability rating of 30% is appropriate IAW VASRD 4.100-129. All examinations are consistent with a 30% rating either for daily use of asthma medication or for FEV1/FVC of 67%. After due deliberation considering all of the evidence, the Board recommends a separation rating of 30% for the asthma condition.

Other PEB Conditions: The other condition forwarded by the MEB and adjudicated as not unfitting by the PEB was SAR. It was not profiled, implicated in the commander’s statement or noted as failing retention standards. In fact, the CI had a waiver for this condition to continue on flight status. This condition was reviewed by the action officer and considered by the Board. There was no indication from the record that it significantly interfered with satisfactory performance of AFS duty requirements. All evidence considered, there is not reasonable doubt in the CI’s favor supporting re-characterization of the PEB fitness adjudication for the seasonal allergic rhinitis condition.

Remaining Conditions. No other conditions were noted in the NARSUM, identified by the CI on the MEB physical or found elsewhere 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. No other conditions were rated for disability by the VA. 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 asthma condition, the Board unanimously recommends that the coding be unchanged, but rated at 30%. In the matter of the SAR condition or any other condition eligible for Board consideration, the Board unanimously agrees that no additional condition can be argued as unfitting and subject to separation rating.

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:

|  |  |  |
| --- | --- | --- |
| **UNFITTING CONDITION** | **VASRD CODE** | **RATING** |
| Asthma | 6602 | 30% |
| **COMBINED** | **30%** |

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The following documentary evidence was considered:

Exhibit A. DD Form 294, dated 20100416, w/atchs.

Exhibit B. Service Treatment Record.

Exhibit C. Department of Veterans' Affairs Treatment Record.

SAF/MRB

1500 West Perimeter Road, Suite 3700

Joint Base Andrews, NAF-Washington, MD 20762

 Reference your application submitted under the provisions of DoDI 6040.44 (Section 1554, 10 USC), PDBR Case Number PD-2010-00474.

 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 your separation be re-characterized to reflect disability retirement, rather than 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 determined that your records should be corrected accordingly. The office responsible for making the correction will inform you when your records have been changed.

 As a result of the aforementioned correction, you are entitled by law to elect coverage under the Survivor Benefit Plan (SBP). Upon receipt of this letter, you must contact the Air Force Personnel Center at 1-800-531-7502 to make arrangements to obtain an SBP briefing prior to rendering an election. If a valid election is not received within 30 days from the date of this letter, you will not be enrolled in the SBP program unless at the time of your separation, you were married or had an eligible dependent child, in such a case, failure to render an election will result in automatic enrollment.

 Sincerely,

Director

Air Force Review Boards Agency

Attachment:

Record of Proceedings

cc:

SAF/MRBR

DFAS-IN

PDBR PD-2010-00474

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 to xxxxxxxxxxx, be corrected to show that:

 a.  The diagnosis in his finding of unfitness for Asthma, VASRD Code 6602, was rated at 30% rather than 10%.

 b.  On 6 March 2006, he declined coverage under the Survivor Benefit Plan (SBP).

 c.  He was not discharged with severance pay on 6 March 2006; rather, on that date, he was relieved from active duty and on 7 March 2006, his name was placed on the Permanent Disability Retired List.

 Director

 Air Force Review Boards Agency