RECORD OF PROCEEDINGS

PHYSICAL DISABILITY BOARD OF REVIEW

NAME: BRANCH OF SERVICE: AIR FORCE

CASE NUMBER: PD1000522 SEPARATION DATE: 20041105

BOARD DATE: 20110318

SUMMARY OF CASE: Data extracted from the available evidence of record reflects that this covered individual (CI) was an Air National Guard MSgt (3P071, Security Force Craftsman) medically separated from the Air Force in 2004 after 18 years of combined service. The medical basis for the separation was a vascular condition. He experienced mesenteric (intestinal blood supply) vein thrombosis which required a partial small bowel resection. The underlying disorder was a hereditary thrombophilia (hypercoagulable) blood disorder requiring lifelong anticoagulant (Coumadin). The initial symptoms began as abdominal cramping while deployed (stateside) in support of Operation Enduring Freedom in 2003. After diagnosis and surgery, his condition was stabilized, but the need for permanent anticoagulation rendered him unable to perform within his Air Force specialty. He was consequently issued a permanent P4 profile, and underwent a Medical Evaluation Board (MEB). The informal Physical Evaluation Board (PEB) adjudicated the mesenteric thrombosis condition as unfitting, rated 10% with presumptive application of DoDI 1332.39 (E2.4.1). The CI appealed to the formal PEB for return to duty, but the adjudication as unfit was reaffirmed at the same code and rating. The Secretary of the Air Force denied a subsequent waiver application, and the CI was medically separated with a 10% disability rating.

CI CONTENTION: “My rated condition is Anemia. Never have I been told I have Anemia. I am Prothrombin III deficient with Prothombin Gene Mutation. I think my condition is unique in that it is not represented in the disability ratings chart. … I feel that since my condition is not represented in the chart another blood condition was chosen. That being Anemia. Whatsmore, several medical professionals have told me that should I stop anticoagulation therapy, I will die.”

RATING COMPARISON:

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| --- | --- | --- | --- | --- | --- | --- | --- |
| **Service FPEB – Dated 20040722** | | | **VA (6 Mo. After Separation) – All Effective 20041106** | | | | |
| **Condition** | **Code** | **Rating** | **Condition** | | **Code** | **Rating** | **Exam** |
| Mesenteric Vein Thrombosis, Thrombophilia, S/P Resection | 7121-7199 | 10% | Thrombophilia | 7799-7700 | | 10% | 20050520 |
| Residuals, Small Bowel Resection… | | 7328 | 0% | 20050520 |
| No additional MEB entries. | | | No additional conditions on initial VA rating decision. | | | | |
| **Final Combined: 10%** | | | **Total Combined: 10%** | | | | |

ANALYSIS SUMMARY:

Thrombophilia. The CI’s contention is correct in that his condition has nothing to do with anemia, per se; nor does it have a very close Veterans’ Administration Schedule for Rating and Disabilities (VASRD) match as a coding option. The PEB code in fact is not rated on the basis of anemia (analogous to venous thrombosis). The 7121 code applied by the PEB utilizes criteria more related to peripheral (extremity) thrombosis than to the visceral thrombosis, which the CI manifested. The 7121 code was specified by DoDI 1332.39 for “hypercoagulable states requiring chronic anticoagulation,” which is precisely applicable to this case. The specific criteria elaborated under 7121 code would not yield a compensable rating in this circumstance. DoDI 1332.39 criteria specified a 0% rating for cases requiring continuing anticoagulation, without an episode of thrombosis within the past year. The CI’s only episode of thrombus (the mesenteric event) had occurred 18 months prior to the PEB. The PEB’s 10% rating was therefore in excess of the rating mandated by the DoDI under which it operated. The VA coding choice of 7700 code, conversely, is analogous to anemia, although the requirement for continuous medication is not a specific criterion under that code. Nevertheless, the Coumadin requirement is the rationale elaborated in the rating decision to support the 10% rating. The requirement for continuous medication is, however, a 10% rating element under other codes in the VASRD §4.117 (hematology/oncology) schedule of ratings. Thus, the VA, although via a different coding route and under the VASRD rather than DoDI authority, employed a similar principal in granting a 10% rating for the lifelong anticoagulant requirement. However, neither the PEB nor the VA had specific justification for that rating under their respective analogous codes. The action officer reviewed all coding options under the hematology, vascular, gastrointestinal and other sections of the VASRD. No codes were more applicable than either of the analogous choices above and none allowed for a higher (or even compensable) rating. Furthermore, the narrative summary (NARSUM) and other evidence from the Service file emphasized the lack of symptoms or impairment at separation, presumably in support of the CI’s bid to remain on active duty. This evidence mitigates the grounds for justifying even an extra-schedular rating recommendation by the Board. Although sympathetic with the CI regarding the lack of better VASRD guidance for rating his case, the Board cannot find reasonable doubt in his favor to support a recommendation for other than the code and rating as adjudicated by the PEB for this condition.

Surgical Residuals. The Board notes that the VA applied 7328 code (intestine, small, resection of) for the surgical residuals in this case, and agrees that this condition, as a direct sequela of the unfitting thrombophilia condition, merits consideration for additional Service rating. The minimum compensable (20%) rating under 7328 code, however, specifies “symptomatic with diarrhea, anemia and inability to gain weight.” Post-operative notes documented that the CI’s diarrhea had resolved and that he was gaining weight. The NARSUM described him as “completely asymptomatic.” The VA examiners documented no related symptoms, and thus the VA rating was 0%. Since there is no compensable rating achievable for the separate condition, the Board sees no point in separating it from the single unfitting condition, as described by the PEB. There is not reasonable doubt in the CI’s favor for additional rating on this basis.

Remaining Conditions. No conditions were identified in the Disability Evaluation System documents other than those addressed above. No other conditions were service connected with a compensable rating by the VA within twelve months of separation. 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, unless they were used to achieve a higher rating than that allowed by the VASRD. The latter stipulation was met in this case regarding application of DoDI 1332.39, and that instruction was therefore considered in the Board’s recommendation. In the matter of the thrombophilia condition (and sequelae), and IAW VASRD §4.104 and DoDI 1332.39 (since rescinded), the Board unanimously recommends no change in the PEB adjudication. In the matter of the surgical residuals of small bowel resection, the Board unanimously agrees that it does not provide for additional Service disability rating. 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 therefore recommends that there be no recharacterization of the CI’s disability and separation determination.

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| **UNFITTING CONDITION** | **VASRD CODE** | **RATING** |
| Thrombophilia with Mesenteric Vein Thrombosis and Surgical Residuals of Small Bowel Resection | 7121-7199 | 10% |
| **COMBINED** | **10%** |

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.

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-2010-00522.

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