RECORD OF PROCEEDINGS

PHYSICAL DISABILITY BOARD OF REVIEW

NAME: BRANCH OF SERVICE: AIR FORCE

CASE NUMBER: PD1000526 SEPARATION DATE: 20080411

BOARD DATE: 20110727

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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 Technical Sergeant, Security Forces Flight Sergeant (3P071), medically separated from the Air Force for right knee pain with post-traumatic arthritis and right anterior/inferior rib pain without any known trauma. The CI did not respond adequately to perform within his Air Force Specialty (AFS) or to participate in a physical fitness test. He was issued a permanent P4 profile and underwent a Medical Evaluation Board (MEB). Right knee post-traumatic arthritis and chronic rib cage pain were addressed in the MEB report and were forwarded to the Physical Evaluation Board (PEB) as the only conditions on the AF IMT 618. The Informal PEB (IPEB) adjudicated both the right knee pain with post-traumatic arthritis and right anterior/inferior rib pain, without any known trauma, as unfitting, each rated 10%, with application of the Veteran’s Administration Schedule for Rating Disabilities (VASRD). The CI requested a Formal PEB, but subsequently waived this request and was separated with a 20% combined disability rating.

CI CONTENTION: “There will always be a continued need of medical care for the service related conditions and injuries sustained while on active duty. I served for eighteen years when discharged for medical reasons.” He attached his VA determination letter to the application, implying that these conditions are also contended.

RATING COMPARISON:

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| --- | --- | --- | --- | --- | --- | --- |
| **Service IPEB – Dated 20071231** | | | **VA ( 2 Mo Post Separation) – All Effective 20080412** | | | |
| **Condition** | **Code** | **Rating** | **Condition** | **Code** | **Rating** | **Exam** |
| R Knee Pain With Post-Traumatic Arthritis | 5003 | 10% | R Knee DJD | 5010 | 10% | 20080603 |
| R Ant/Inf Rib Pain w/o Known Trauma | 8719 | 10% | Not Service Connected (NSC) | | | |
| ↓No Additional MEB Entries↓ | | | L Knee DJD | 5010 | 10% | 20080603 |
| Lumbar Spine DJD | 5010 | 10% | 20080603 |
| Tinnitus | 6260 | 10% | 20080602 |
| 0% x 4 / NSC x 2 | | | |
| **FINAL Combined: 20%** | | | **TOTAL Combined (*Includes Non-PEB Conditions*): 40%** | | | |

ANALYSIS SUMMARY: The Disability Evaluation System (DES) is responsible for maintaining a fit and vital fighting force. 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 his degree of impairment vary over time. The Board is sensitive to the member's potential need for continuing medical care; therefore, the Board encourages the member to utilize the resources of the VA to the extent that he may be entitled. A full complement of medical services is available at any tertiary level VA health care facility. The VA's Vocational Rehabilitation and Employment Program mission is to assist veterans with a service-connected disability to prepare for and find suitable employment.

Right Knee Pain With Post-Traumatic Arthritis. On 15 April 1999, the CI injured his right knee when he fell 20 feet onto an ammo pallet when the roof of a concrete bunker collapsed. He was treated conservatively for several weeks before he was returned to full duty. He had recurrent symptoms intermittently over the next eight years until 2007 when he was no longer able to meet the requirements of his AFS. X-rays, dated 23 February 2007, showed stable degenerative joint disease (DJD) without acute findings. He was seen twice in orthopedics in June 2007 for hyalgan injections; these did not provide significant improvement in symptoms. Laboratory evaluations for possible inflammatory arthitides were negative. Two goniometric range of motion (ROM) measurements are documented in the table below.

|  |  |  |
| --- | --- | --- |
| Goniometric ROM  Knee | PT/MEB ~ 5 Mo. Pre-Sep | VA C&P ~ 2 Mo. Post-Sep |
| Right | Right |
| Flexion (140⁰ normal) | 140⁰ with pain | 130⁰ x 3 with pain |
| Extension (0⁰ normal) | 0⁰ | 0⁰ x 3 |
| Comments | Clicking and grating on exam with antalgic gait and use of off-loader brace; resting position 10⁰ of flexion; crepitus; strength 4/5 secondary to pain; no instability | Right knee patellar compression and McMurray tests positive; motor strength normal (5/5) |
| Rating | 10% (§4.59 painful motion) | 10% (§4.71a painful motion) |

On the MEB exam (29 October 2007) five and one-half months prior to separation the right knee was noted to have no effusion, no deformity, no laxity, and to be non-tender. No ROM was documented, but a physical therapy evaluation one week later noted that the CI rested the right knee in 10 degrees flexion and that he had crepitus. An orthopedic exam two months prior to separation on 30 January 2008 documented that the CI noted some catching and popping, but no locking. He was tender over the medial joint line and medial femoral condyle. McMurrays was painful on the medial side. There was no instability; however, varus stress was painful. The off-loader brace was noted to reduce his symptoms. At the separation physical one month prior to separation on 12 March 2008, there were no joint symptoms documented. There was normal movement in all extremities although a limp was present. At the VA compensation and pension (C&P) exam two months after separation on 3 June 2008 the CI reported chronic swelling and stiffness and no locking or instability. He was still using a brace. Exercise and duty limitations were noted, but the activities of daily living were unimpaired. No swelling was noted, ROM is annotated above, and no instability was noted. Right patellar compression and McMurray were positive for pain. Gait was normal. The VA C&P exam is considered to have the higher probative value for both completeness and proximity to separation; however, the MEB examination would result in the same rating. The PEB coded the right knee 5003, degenerative arthritis, and the VA 5010, post-traumatic arthritis, both rated 10% for painful motion (VASRD §4.59 and §4.71a, respectively). There was no history of surgery of the knee joint, instability or effusion. There was no history of “giving way” on MEB, C&P or final (active duty) orthopedic exams. The slightly decreased ROM seen on the C&P exam is not compensable. After due deliberation, in consideration of the totality of the evidence, the Board concluded that there was insufficient evidence to recommend a change from the PEB fitness adjudication for the right knee condition.

Right Anterior/Inferior Rib Pain. The CI first noted rib pain in December 2005. A diagnosis of costochondritis was made and possible diagnosis of muscle spasm was also considered. He was treated with acetaminophen and cyclobenzaprine. He was also evaluated by gastroenterology (GI) and diagnosed with erosive gastritis, esophagitis, and hiatal hernia. The 3 June 2008 VA C&P exam made the diagnosis of right costochondritis. On exam, there was tenderness of the right lower anterior ribcage costochondral junctions. The VA coded the chronic right costochondritis as 5299-5297, analogous to removal of ribs, but determined the condition to be non-service connected and not compensable. X-ray showed no bony abnormality. The PEB coded the right rib pain as 8719, neuralgia of the long thoracic nerve, and rated 10%, but did not use the code analogously. All evidence considered, there is not reasonable doubt in the CI’s favor supporting a change from the PEB’s disability rating decision for the rib pain condition, but the Board does recommend that the code be modified to 8799-8719, analogous to neuralgia of the long thoracic nerve.

Other Contended Conditions. The CI’s application implies that compensable ratings should be considered for left knee DJD, lumbar spine DJD, tinnitus, bilateral hearing loss, LASER ablation of right leg varicose veins, gastroesophageal reflux disease (GERD) with peptic ulcer disease and hiatal hernia, residual scars from left leg varicose vein ligation and seasonal allergic rhinitis (SAR). These conditions were reviewed by the action officer and considered by the Board. There was no evidence for concluding that any of the conditions interfered with duty performance to a degree that was unfitting. The GI diagnoses were well controlled with medications as was the SAR. Tinnitus, low back pain/DJD and left knee DJD were not 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 determined therefore that none of the stated conditions were subject to Service disability rating.

Remaining Conditions. Bilateral pretibial edema was also identified in the DES file. 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, were the bases for limited duty, 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. Conditions that were noted in the VA rating decision proximal to separation are discussed above. 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 right knee and right rib conditions and IAW VASRD §4.71a, and §4.124a, the Board unanimously recommends no change in the PEB rating adjudication, but that the rib condition be coded as 8799-8719. In the matter of the pre-tibial edema, sleep disturbance, left knee, low back pain, varicose veins, hearing loss, GERD and SAR conditions 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.

RECOMMENDATION: Board therefore recommends modification of the disability description without re-characterization of the CI’s disability and separation determination, as follows:

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| **UNFITTING CONDITION** | **VASRD CODE** | **RATING** |
| Right Knee Pain With Post-Traumatic Arthritis | 5003 | 10% |
| Right Ant/Inf Rib Pain w/o Any Known Trauma | 8799-8719 | 10% |
| **COMBINED** | **20%** |

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The following documentary evidence was considered:

Exhibit A. DD Form 294 dated 20100327, 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, NAF-Washington, MD 20762

Reference your application submitted under the provisions of DoDI 6040.44 (Section 1554, 10 USC), PDBR Case Number PD-2010-00526.

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 description without modification of the assigned rating or 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-2010-00526

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 xxxxxxxxxxxxx, be corrected to show that the diagnosis in his finding of unfitness was Right Knee Pain with Posttraumattic Arthritis, VASRD Code 5003, rated at 10% and Right Anterior/Inferior Rib Pain without any known trauma, VASRD Code 8799-8719 rather than VASRD Code 8719; with a combined rating of 20%.

Director

Air Force Review Boards Agency