RECORD OF PROCEEDINGS

PHYSICAL DISABILITY BOARD OF REVIEW

NAME: BRANCH OF SERVICE: air force

CASE NUMBER: PD1000713 SEPARATION DATE: 20040701

BOARD DATE: 20111121

SUMMARY OF CASE: Data extracted from the available evidence of record reflects that this covered individual (CI) was an active duty E-5/SSgt (2A6/Turboprop Propulsion Craftsman) medically separated for avascular necrosis, left femoral head status post motor vehicle accident, with femoral neck fracture*.* He did not respond adequately to treatment and was unable to perform within his career field or meet physical fitness standards. He was issued a permanent L4 and underwent a Medical Evaluation Board (MEB). Avascular necrosis 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 PEB adjudicated the avascular necrosis condition as unfitting, rated 20% respectively, with application of DoDI 1332.39 and Veterans’ Administration Schedule for Rating Disabilities (VASRD), respectively. The CI made no appeals, and was medically separated with a 20% disability rating.

CI CONTENTION: He elaborates no specific contentions regarding rating or coding and mentions no additionally contended conditions.

RATING COMPARISON:

|  |  |
| --- | --- |
| **Service IPEB – Dated 20040322** | **VA (2 Mo. Pre-Separation) – All Effective Date 20040702** |
| **Condition** | **Code** | **Rating** | **Condition** | **Code** | **Rating** | **Exam** |
| Avascular Necrosis, Left Femoral Head Status Post Motor Vehicle Accident with Femoral Neck Fracture | 5255 | 20% | Residual, Fracture Left Femur with Avascular Necrosis, Post-Op | 5003-5255 | 20% | 20040414 |
| ↓No Additional MEB/PEB Entries↓ | Carpal Tunnel Syndrome, Left Wrist | 8515 | 10% | 20041213 |
| Carpal Tunnel Syndrome, Right Hand | 8515 | 10% | 20041213 |
| Chondromalacia Patella, Right Knee | 5299-5010 | 10% | 20040414 |
| Chondromalacia, Left Patella | 5299-5010 | 10% | 20040414 |
| 0% x 3/Not Service Connected x 1 | 20040414 |
| **Combined: 20%** | **Combined: 50%** **(Bilateral factor applied for diagnostic codes** **8515,8515, 5010, 5255, 5010)** |

ANALYSIS SUMMARY: The Board acknowledges that the unfitting condition will predictably worsen over time requiring additional surgical treatment. The Board will provide ratings 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.

Avascular Necrosis Left Femoral Head Condition. The CI injured the left hip in a motorcycle accident on 4 January 1999. He had a femoral neck fracture that required closed reduction and internal fixation. Postoperatively, the femoral neck fracture healed well but he did develop avascular necrosis of the femoral head as a complication of this injury.

The narrative summary (NARSUM) on 23 February 2004, four months pre-separation, noted complaints of occasionally severe left hip pain, inability to walk more than one mile or stand more than eight hours daily, and inability to lift heavy objects. Exam showed hip flexion of 90 degrees and normal extension, internal and external rotation. His gait was normal. He was unable to run or perform impact activities. The NARSUM noted he would likely require more surgery to include hardware removal, core decompression, and eventual hip arthroplasty. The VA compensation and pension (C&P) examination on 15 April 2004, two months pre-separation, noted complaints of constant hip pain, worse with standing or walking for more than one hour, and inability to walk more than one mile. Examination showed antalgic gait with flexion of 60 degrees and abduction of 20 degrees. Strength and sensation were normal. There was tenderness to palpation of the hip; however, the surgical scar was well healed and not tender. As summarized below, neither exam documented compensable left knee range of motion (ROM) under code 5252 (thigh, limitation of flexion of) or 5253 (thigh, impairment of).

|  |  |  |
| --- | --- | --- |
| Goniometric ROM –L Hip (Thigh) | MEB ~ 4 Mo. Pre-Sep | VA C&P ~ 2.5 Mo. Pre-Sep |
| Flexion (0-125) | 90⁰ | 60⁰ |
| Extension (0) | 0⁰ | #⁰ |
| Abduction (0-45) | #⁰ | 20⁰ |
| Adduction (0-45) | #⁰ | #⁰ |
| Comment | int/ext rotation normal |  |
| §4.71a Rating | 20% | 20% |

The PEB found the avascular necrosis condition unfitting, coded 5255 (femur, impairment of), with a 20% rating. The VA rating decision on 23 July 2004, one month post-separation, service connected the residuals, fracture left femur with avascular necrosis status post surgery condition with a 20% rating coded 5003-5255. Code 5255 assigns a 20% rating for femur malunion, with moderate hip disability. Although there is no malunion, the code is used to rate hip disability due to the avascular necrosis condition. A 10% rating would be assigned for slight hip disability and 30% for marked hip disability. The VA rationale noted that 20% was assigned for limitation of motion due to pain, chronic pain, and functional loss. The Board considered at length the available evidence supporting a slight left hip disability (10%), moderate disability (20%) or marked disability (30%). All evidence considered, there is not reasonable doubt in the CI’s favor supporting recharacterization of the PEB fitness adjudication for the avascular necrosis left femoral head condition.

Remaining Conditions. The MEB physical noted a three month history of right hand pain with no injury. This condition was reviewed by the action officer and considered by the Board. It was determined that it could not be argued as unfitting and subject to separation rating. No other conditions were noted in the NARSUM, identified on the MEB physical or found elsewhere in the DES file. Right and left carpal tunnel syndrome and right and left chondromalacia patella 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.

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 avascular necrosis condition and IAW VASRD §4.71a, the Board unanimously recommends no change in the PEB adjudication. 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, as follows:

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| --- | --- | --- |
| **UNFITTING CONDITION** | **VASRD CODE** | **RATING** |
| Avascular Necrosis Left Femoral Head | 5255 | 20% |
| **COMBINED** | **20%** |

The following documentary evidence was considered:

Exhibit A. DD Form 294, dated 20100602, 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-2010-00713.

 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