RECORD OF PROCEEDINGS

PHYSICAL DISABILITY BOARD OF REVIEW

NAME: BRANCH OF SERVICE: Air force

CASE NUMBER: PD1000723 SEPARATION DATE: 20051227

BOARD DATE: 20110802

SUMMARY OF CASE: Data extracted from the available evidence of record reflects that this covered individual (CI) was an active duty SSGT/E-5 (2W071, Munitions Systems Craftsman), medically separated from the Air Force in 2005 for bilateral knee pain. He developed knee pain with running and biking that did not improve with repeated profiles and physical therapy. An orthopedic evaluation diagnosed the condition as patellofemoral syndrome. He did not respond adequately to treatment to perform within his Air Force Specialty (AFS) or meet physical fitness standards, was issued a permanent L4 profile and underwent a Medical Evaluation Board (MEB). Bilateral knee pain was forwarded to the Physical Evaluation Board (PEB) as a medically unacceptable condition IAW AFI 48-123, and no other conditions appeared on the MEB’s submission. The PEB adjudicated the bilateral knee condition as a single unfitting condition, rated 10% and referencing DoD and Veterans Administration Schedule for Rating Disabilities (VASRD) guidelines. The CI made no appeals and was medically separated with the 10% disability rating.

CI CONTENTION: The application elaborates no specific contentions regarding rating or coding of the unfitting conditions, but notes the VA’s service connection for allergic rhinitis.

RATING COMPARISON:

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Service PEB – Dated 20051108** | | | **VA (5 Mo. After Separation) – All Effective 20051228** | | | |
| **Condition** | **Code** | **Rating** | **Condition** | **Code** | **Rating** | **Exam** |
| Bilateral Knee Pain | 5099-5003 | 10% | Right Knee PFS | 5299-5260 | 10% | 20060428 |
| Left Knee PFS | 5299-5260 | 10% | 20060428 |
| ↓No Additional MEB/PEB Entries↓ | | | Allergic Rhinitis | 6522 | 10% | 20060428 |
| Not Service Connected x 2 | | | 20060428 |
| **Combined: 10%** | | | **Combined: 30%** | | | |

ANALYSIS SUMMARY:

Bilateral Knee Condition: The record indicates that the CI had painful range of motion (ROM) of both knees that limited AFSC performance. The MEB exam (three months pre-separation) documented no instability, effusion or other ratable findings, and documented full (non-goniometric) ROM. X-rays and magnetic resonance imaging (MRI) showed no arthritis or significant structural issues in the knee joints. The VA exam (five months post-separation) documented similar objective findings (no instability) and included the only goniometric ROM exam in evidence, documenting flexion (limited by pain) to 90⁰ (normal 140⁰) on the left and 88⁰ on the right. The PEB combined bilateral knee pain as a single unfitting condition coded analogously to 5003 and rated 10%. The Board’s initial charge in this case was therefore directed at determining if the PEB’s approach of combining conditions under a single rating was justified in lieu of separate ratings. IAW VASRD §4.7 (higher of two evaluations), the Board must apply separate codes and ratings in its recommendations if compensable ratings for each condition are achieved IAW VASRD §4.71a. The VA exam provided adequate evidence for application of §4.59 (painful motion) and the MEB exam supported application of §4.40 (functional loss), either of which would support the minimum compensable rating for each joint. This is consistent as well with the VA rating decision. After due deliberation, in consideration of the above evidence and mindful of VASRD §4.3 (reasonable doubt), the Board agreed that separate ratings for each knee were indicated. No VASRD route to a rating higher than the minimum compensable (10%) for either joint was in evidence. The preferred coding for each joint, given the sole goniometric evaluation in evidence, is analogous to 5260 (limitation of flexion).

Remaining Conditions. Two other conditions, seasonal allergies and eczematous dermatitis, were identified in the service file. Several additional non-acute conditions or medical complaints were also documented. None of these conditions were profiled, implicated in the commander’s statement, or noted as failing retention standards. These conditions were reviewed by the action officer and considered by the Board. There was no indication from the record that any of these conditions significantly interfered with satisfactory performance of AFSC duty requirements; thus it was determined that neither could be argued as unfitting and subject to separation rating. No other conditions were service connected with a compensable rating by the VA within twelve months of separation or contended by the CI. 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. The Board notes the PEB’s reference to DoD guidelines in its adjudication, and its recommendations are independent of any DoD regulations. In the matter of the bilateral knee condition, the Board unanimously recommends that each joint be separately adjudicated as follows: an unfitting right knee condition coded 5299-5260 and rated 10% and an unfitting left knee condition coded 5299-5260 and rated 10%; both IAW VASRD §4.71a. 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 recommends that the CI’s prior determination be modified as follows, effective as of the date of his prior medical separation.

|  |  |  |  |
| --- | --- | --- | --- |
| **UNFITTING CONDITION** | | **VASRD CODE** | **RATING** |
| Patellofemoral Syndrome, Left Knee | | 5299-5260 | 10% |
| Patellofemoral Syndrome, Right Knee | | 5299-5260 | 10% |
| **COMBINED (Incorporating BLF)** | | **20%** |

The following documentary evidence was considered:

Exhibit A. DD Form 294, dated 20100618, 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-2010-00723.

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-2010-00723

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 Patellofemoral Syndrome, Left Knee, VASRD Code 5299-5260, rated at 10%; and Patellofemoral Syndrome, Right Knee, VASRD Code 5299-5260, rated at 10%; with a combined disability rating of 20%; rather than Bilateral Knee Pain, VASRD Code 5099-5003, rated at 10%.

Director

Air Force Review Boards Agency