RECORD OF PROCEEDINGS

PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXX BRANCH OF SERVICE: navy

CASE NUMBER: PD1000865 SEPARATION DATE: 20010914

BOARD DATE: 20110628

SUMMARY OF CASE: Data extracted from the available evidence of record reflects that this covered individual (CI) was an active duty E-2 (CTTSA, cryptologic technician) medically separated from the Navy in 2001. The medical basis for the separation was Status Post Left Knee Anterior Cruciate Ligament Reconstruction, Symptomatic. At the time of the CI’s induction into the Navy, it was noted that the CI had a prior left anterior cruciate ligament reconstruction in February 1999. At the time of entrance into the Navy, the CI indicated that she had no pain, no swelling or any other difficulty related to her knee reconstruction. Soon after the CI’s entrance into the Navy, she began complaining of a significant amount of anterior knee pain. In November 2000, the CI was scheduled to undergo a Medical Evaluation Board (MEB), however this was terminated and a three month trial of Physical Therapy (PT) was recommended. The CI underwent the PT; however, the left knee pain continued to persist. The CI was placed on light duty for five months then limited duty (LIMDU) for three months. The recommendation for the MEB was reinstated and the CI was referred for a MEB. The MEB forwarded “Status /Post (S/P) Left Knee Reconstruction, Symptomatic, Existed Prior to Service (EPTS) to the Physical Evaluation Board (PEB) on NAVMED 6100/1. The PEB adjudicated “S/P Left Knee ACL, Symptomatic” as unfitting rated 10% (with a 0% EPTS deduction) with application of the VASRD. The CI did not appeal and was thus medically separated with a combined disability rating of 10%.

CI CONTENTION: The CI states: “On November 20, 2000 the Orthopedic Doctor that was in charge of my case performed a physical evaluation and included a write up of that evaluation. He performed various tests on my knee to determine its stability. In this write up, he included that he performed the McMurray test as well as the drawer test, both of which he stated were negative. Following this examination it was the finding of the PEB that I should go through physical therapy to see if that could alleviate any of the pain and instability in my knee.” As a matter of policy, all service conditions are reviewed by the Board for their potential contribution to its rating recommendations.

RATING COMPARISON:

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Service IPEB – Dated 20010802** | | | **VA (8 Mo. after Separation) – All Effective 20010915** | | | |
| **Condition** | **Code** | **Rating** | **Condition** | **Code** | **Rating** | **Exam** |
| S/P Left Knee ACL Re-construction, Symptomatic | 5299-5003 | 10% | Left Knee Reconstruction, Residuals … | 5257 | 10% | 20020530 |
| ↓No Additional MEB/PEB Entries↓ | | | Low Back Strain Associated with Residuals of Left Knee ACL Reconstruction | 5295 | 0% | 20020530 |
| Not Service Connected x 3 | | | 20020530 |
| **Combined: 10%** | | | **Combined: 10%** | | | |

ANALYSIS SUMMARY:

Left Knee Condition. There were two goniometric range-of-motion (ROM) evaluations in evidence which the Board weighed in arriving at its rating recommendation. All pertinent exams are summarized in the chart below.

|  |  |  |  |
| --- | --- | --- | --- |
| Left Knee  Goniometric ROM | PT ˜6 Mo. Pre-Sep | MEB ˜3 Mo. Pre-Sep | VA C&P ˜8 Mo. Post Sep |
| Flexion 0-140⁰ |  | 0⁰-140⁰ | 0⁰-150⁰ |
| Extension 0⁰ | Unknown | 0⁰ | 0⁰ |
| Comments | Lack of sensation laterally; \*TTP superior, inferior and medially; atrophy; pain with compression +duck walk | Mild effusion; stable knee medial/lateral with neg Lachman; Peripatellar pain | 4/5 strength; Mild laxity ACL; mild limp with pain; Mild Infrapatellar swelling; stable med/lat/post collateral ligaments; mild antalgic gait |
| §4.71a Rating | 10% | | 10% |

\* TTP: Tender to palpation

The MEB examination 11 months prior to separation documented that the CI complained of peripatellar pain, post exertional swelling a sensation of knee instability and experiencing the knee give out while she was walking on several occasions. The physical exam indicated that there was a benign surgical scar and trace effusion, however, Lachman’s test was negative, Mc Murrays test was negative, the knee was stable medially and laterally and the neurovascular exam was normal. The examiner opined that although the X-ray was normal, the final diagnosis was s/p ACL reconstruction, symptomatic. The CI underwent a second MEB examination three months prior to separation. At this examination, the CI complained of persistent left knee pain that worsened over the prior three months although she had completed a course of PT. The CI remained unable to run or do strenuous physical activity. The CI continued to complain of peripatellar pain worsened by going up and down stairs and with routine activities of daily living. The examiner documented a mild effusion with stability medially and laterally with a negative Lachman test, normal neurovascular exam and a normal ROM extension from 0 degrees to 140 degrees. The Non Medical Assessment (NMA) noted that although the CI had been on Light Duty once during the prior five months, based on the CI’s exceptional performance in CTT “A” School and her desire to continue naval service the Commander recommended another period of temporary LIMDU.

The Compensation & Pension (C&P) examination documented that the CI complained of constant left knee pain and swelling aggravated from walking, tendency to buckle almost daily with weakness but no locking. The CI stated that she needed to take a Non Steroidal (NSAID) medication (Ibuprofen) almost every day. On physical examination, the ROM was 0 degrees to 150 degrees, mild laxity of the anterior cruciate ligament, mild left limp with mild pain, mild Infrapatellar swelling, however, the medial, lateral and posterior collateral ligaments were stable and McMurray’s sign was negative.

The PEB unfitting determination for the Left Knee ACL Reconstruction was coded analogously for arthritis (5299-5003) at 10%. The VA rated the Residuals of Left Knee Reconstruction as 5257 (Knee, other impairment of) at 10%. The left knee demonstrated painful motion on the preponderance of exams. No exams indicate limited ROM to a compensable level without application of §4.59 (painful motion). VASRD §4.71 specifies for 5003 that “satisfactory evidence of “pain limited motion” constitutes limitation of motion below the VA normal (0°-140° for the knee) and specifies a 10% rating “for each major joint or group of minor joints affected by limitation of motion. The PEB and VA chose different coding options, but this did not bear on the rating. The Board opined that the coding of 5257 at 10% was more precise, however, the 5299-5003 coding was acceptable and at the same rating level. There was also mixed evidence of any instability on treatment notes and VA exam (ACL laxity) versus the narrative summary (NARSUM). The knee condition could not be reasonably rated higher than 10% using any exam proximate to separation or any alternate coding schema. After due deliberation, there is not reasonable doubt in the CI’s favor to justify a Board recommendation for other than the 10% rating assigned by the PEB for Left Knee ACL Reconstruction.

Low Back Strain Associated with Residuals of Left Knee ACL Reconstruction: The VA rated the low back condition at 0%. However, this condition was not mentioned in the Disability Evaluation System (DES) package. The Board does not have the authority under DoDI 6040.44 to render fitness or recommendations for any conditions not considered by the DES. No other conditions were rated by the VA at 0% within 12 months of separation. The Board therefore has no eligible 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 did not surmise from the record or PEB ruling in this case that any prerogatives outside the VASRD were exercised. In the matter of the left knee condition and IAW §4.71a, the Board unanimously recommends no change in the PEB adjudication of 10% coded 5299-5003. 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** |
| S/P Left Knee ACL Reconstruction, Symptomatic | 5299-5003 | 10% |
| **COMBINED** | **10%** |

The following documentary evidence was considered:

Exhibit A. DD Form 294, dated 20100719, w/atchs.

Exhibit B. Service Treatment Record.

Exhibit C. Department of Veterans' Affairs Treatment Record.

Deputy Director

Physical Disability Board of Review

MEMORANDUM FOR DIRECTOR, SECRETARY OF THE NAVY COUNCIL OF REVIEW

BOARDS

Subj: PHYSICAL DISABILITY BOARD OF REVIEW (PDBR) RECOMMENDATION

ICO XXXX, FORMER USN

Ref: (a) DoDI 6040.44

(b) PDBR ltr dtd 7 Jul 11

I have reviewed the subject case pursuant to reference (a) and, for the reasons set forth in reference (b), approve the recommendation of the Physical Disability Board of Review Ms. XXX’s records not be corrected to reflect a change in either her characterization of separation or in the disability rating previously assigned by the Department of the Navy’s Physical Evaluation Board.

Assistant General Counsel

(Manpower & Reserve Affairs)