RECORD OF PROCEEDINGS

PHYSICAL DISABILITY BOARD OF REVIEW

NAME: BRANCH OF SERVICE: AIR FORCE

CASE NUMBER: PD1000999 SEPARATION DATE: 20030407

BOARD DATE: 20111021

SUMMARY OF CASE: Data extracted from the available evidence of record reflects that this covered individual (CI) was an active duty SSgt/E-5 (2T271, Air Transportation Craftsman) medically separated for left carpal tunnel syndrome (CTS).She started experiencing nerve pain in both hands in 1998. Surgery the same year relieved the symptoms in the right hand, but three surgeries and extensive physical therapy did not resolve the symptoms in her left hand. She did not respond adequately to perform within her career field or meet physical fitness standards. She was issued a revised temporary P4 profile and underwent a Medical Evaluation Board (MEB). CTS was forwarded to the Physical Evaluation Board (PEB) as medically unacceptable IAW AFI 48-123. The PEB adjudicated the left carpal tunnel syndrome status post three surgeries condition as unfitting, rated 20%, with application of the Veterans Administration Schedule for Rating Disabilities (VASRD). The PEB also listed obesity 43% body fat as a category III condition that is not separately unfitting and not compensable or ratable. The CI made no appeals and was medically separated with a 20% combined disability rating.

CI CONTENTION: “Medications and dosages for migraines have changed several times. Further testing on left hand has been done. Deemed a neurological issue now. Medication prescribed.” She elaborates no other specific contentions regarding rating or coding and mentions no additionally contended conditions.

RATING COMPARISON:

|  |  |
| --- | --- |
| **Service IPEB – Dated 20030310** | **VA (5 Mos. After Separation) – All Effective 20030408** |
| **Condition** | **Code** | **Rating** | **Condition** | **Code** | **Rating** | **Exam** |
| Left CTS | 8715-5299 | 20% | Residuals Left CTS Surgery  | 8515 | 10% | 20030924 |
| Obesity 43% Body Fat | Cat III | No VA Entry |
| ↓No Additional MEB/PEB Entries↓ | Residuals Right CTS  | 8515 | 0% | 20030924 |
|  | Migraine Headaches | 8100 | 30% | 20030924 |
| Cervical Spine Condition | 5243 | 10%\*  | 20060225 |
| **Combined: 20%** | **Combined: 40%** |

\*Note: 5243 rated 10% effective 20030924 based on an exam dated 20060225.

ANALYSIS SUMMARY: The Board acknowledges the sentiment expressed in the CI’s application regarding the significant impairment with which her service-incurred condition continues to burden her. The Board wishes to clarify that it is subject to the same laws for service disability entitlements as those under which the Disability Evaluation System (DES) operates. The DES has neither the role nor the authority to compensate service members for anticipated future severity or potential complications of conditions resulting in medical separation. That role and authority is granted by Congress to the Department of Veteran Affairs (VA), operating under a different set of laws (Title 38, United States Code). The Board evaluates VA evidence proximal to separation in arriving at its recommendations, but its authority resides in evaluating the fairness of DES fitness decisions and rating determinations for disability at the time of separation.

Left Carpal Tunnel Syndrome Condition. The service treatment records clearly indicate that the CI had problems with CTS in both wrists. The right wrist (her dominant hand) improved with surgery. Her left wrist, however, did not improve significantly despite three surgeries. Many pre-separation examinations showed that the CI had pain, decreased muscle strength, and decreased sensation in the distribution of the left median nerve. The MEB examiner also noted limited range of motion of the left wrist. Both the MEB and VA examiners noted a slight decrease in muscle strength at the left wrist. Neither examiner documented loss of reflexes or muscle atrophy. The evaluations were unanimous in rating the severity of the conditions as mild to moderate. The PEB coded this condition analogous to 8715 (median nerve neuralgia), rated 20% for moderate severity (minor/non-dominant). Per VASRD §4.124, this is the maximum rating for neuralgia of a peripheral nerve. The VA coded and rated this condition as mild paralysis of the median nerve. The Board also discussed coding and rating this peripheral nerve condition as neuritis since VASRD §4.123 specifies a maximum rating for neuritis equal to severe, incomplete paralysis of the nerve when organic changes are present. However, in the absence of compelling evidence of organic changes “characterized by loss of reflexes, muscle atrophy, sensory disturbances, and constant pain, at times excruciating,” the Board concluded that no rating higher than moderate incomplete paralysis of the median nerve was supportable. The Board also considered a rating under 5215 (wrist, limitation of motion) but no rating advantageous to the CI is possible. All evidence considered, there is not reasonable doubt in the CI’s favor supporting a change from the PEB’s rating decision of 20% for the left carpal tunnel syndrome condition.

Other Contended Conditions. The CI’s application asserts that compensable ratings should be considered for migraine headaches. This condition was not noted in the narrative summary, identified in the commander’s statement, or found elsewhere in the DES file. The service treatment record documents several clinic visits prior to the MEB period for headaches of various types, all minor, relieved by medication, and not associated with incapacitation or lost duty time. There was no evidence for concluding that this condition interfered with duty performance to a degree that could be argued as unfitting. The Board determined therefore that the migraine headache condition is not subject to service disability rating.

Remaining Conditions. Other conditions identified in the DES file were right wrist surgery, scar residual of left wrist CTS surgery, bilateral knee pain, seasonal allergic rhinitis, pre-menstrual dysphoric disorder, depression and dyspepsia. Several additional non-acute conditions or medical complaints were also documented. None of these conditions were clinically active during the MEB period, none carried attached profiles, and none 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. Additionally, a cervical spine condition and several other non-acute conditions 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. 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 carpal tunnel condition and IAW VASRD §4.124a, the Board unanimously recommends no change in the PEB adjudication. In the matter of the migraine headache condition, the Board unanimously agrees that it cannot recommend a finding of unfit for additional rating at separation. In the matter of the right wrist surgery, scar residual of left wrist CTS surgery, bilateral knee pain, seasonal allergic rhinitis, pre-menstrual dysphoric disorder, depression and dyspepsia 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: The Board therefore recommends that there be no recharacterization of the CI’s disability and separation determination, as follows:

|  |  |  |
| --- | --- | --- |
| **UNFITTING CONDITION** | **VASRD CODE** | **RATING** |
| Left Carpal Tunnel Syndrome | 8715 | 20% |
| **COMBINED** | **20%** |

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The following documentary evidence was considered:

Exhibit A. DD Form 294, dated 20100619, 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-2010-00999.

 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