RECORD OF PROCEEDINGS

PHYSICAL DISABILITY BOARD OF REVIEW

NAME: xxxxxxxxxx. BRANCH OF SERVICE: Army

CASE NUMBER: PD1100123 SEPARATION DATE: 20020901

BOARD DATE: 20111116

SUMMARY OF CASE: Data extracted from the available evidence of record reflects that this covered individual (CI) was an active duty SSG/E-6 (92A/Logistical Specialist) medically separated for left knee pain with grade II chondromalacia of the medial femoral condyle (arthroscopy) and radiographs showing a narrow tibiofemoral joint consistent with osteoarthritis. The CI initially presented with left knee pain in October 1993 when he injured himself while playing soccer. After conservative management, he underwent an arthroscopic decompression of a meniscal cyst. The CI was diagnosed with grade II chondromalacia of the medial femoral condyle. Despite medication, surgery, physical therapy and the use of a cane, the CI was unable to perform within his military occupational specialty (MOS) or meet physical fitness standards. The CI was issued a permanent L4 profile and underwent a Medical Evaluation Board (MEB). The MEB forwarded “post traumatic osteoarthritis of the left knee” to the Physical Evaluation Board (PEB) as medically unacceptable IAW AR 40-501. The PEB adjudicated “left knee pain with grade II chondromalacia” condition as unfitting, rated 10%, with application of the VA Schedule for Rating Disabilities (VASRD) and possible application of the US Army Physical Disability Agency pain policy and DoDI 1332.39.The CI made no appeals, and was medically separated with a 10% disability rating.

CI CONTENTION: “The rating that I received from the Department of the Army was 20% lower than the rating I received with the Department of Veteran Affairs. I believe that my disability rating with the Army should have been higher than what I received.” He elaborates no specific contentions regarding rating or coding and mentions no additionally contended conditions.

RATING COMPARISON:

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| --- | --- |
| **Service IPEB – Dated 20020610** | **VA (3 Mo. Pre-Separation) – All Effective Date 20020902** |
| **Condition** | **Code** | **Rating** | **Condition** | **Code** | **Rating** | **Exam** |
| L/Knee Pain w/Grade II Chondromalacia | 5010-5003 | 10% | Post operative Residuals Osteoarthritis of Left Knee | 5262-5010 | 10% | 20020625 |
| ↓No Additional MEB/PEB Entries↓ | Migraines | 8100 | 10% | 20020625  |
| Exercise Induced Asthma | 6602 | 10% | 20020625 |
| 0% x 1/Not Service Connected x 0 | 20020625 |
| **Combined: 10%** | **Combined: 30%** |

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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 Veteran Affairs (VA), operating under a different set of laws (Title 38, United States Code), is empowered to compensate service connected conditions and to periodically re-evaluate said conditions for the purpose of adjusting the veteran’s disability rating should the degree of impairment vary over time.

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

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| Goniometric ROM –Left Knee | MEB ~ 6 Mo. Pre-Sep | VA C&P ~ 3 Mo. Pre-Sep |
| Flexion (140 ⁰normal) | 120⁰ | 120⁰ |
| Extension (0⁰ normal) | 0⁰ | 0⁰ |
| Comment | Hx intermittent locking and give away; mild tenderness to palpation (TTP) anterolateral, patella; patella grinding, pain; no marked crepitus; stable to varus/valgus, Lachman's, anterior drawer and posterior drawer testing, patellar appears to tract normally; uses cane; “antalgic gait…with or without cane”; x-ray early osteoarthritis tibiofemoral joint space | Hx intermittent locking and give away and intermittent swelling; TTP joint line and behind patella; flexion decreased due to pain slight antalgic gait favoring left knee; positive patellar grinding; negative McMurray; “osteoarthritis, condition will deteriorate over time” |
| §4.71a Rating | 20% (PEB 10%) | 20% (VA 10%) |

The CI injured his left knee playing soccer in October 1993 and developed chronic knee pain. The CI had two subsequent emergency room visits for the left knee pain. The CI underwent a left knee arthroscopy cyst removal and partial medial meniscectomy in July 1997. The CI underwent several courses of physical therapy. A magnetic resonance imaging in March 2001 indicated a strain of the posterolateral corner of the knee without a distinct tear. X-ray found a narrow tibiofemoral joint space consistent with early osteoarthritis, and bone scan demonstrated a mild diffuse stress reaction in the left knee medial compartment.

The commander’s statement noted that the CI had severe leg pains and he was unable to perform many of the physical tasks inherent to his MOS. The MEB exam six months prior to separation documented persistent severe knee pain causing a lack of sleep, inability to stand/walk for a prolonged period, pain on knee bending, locking, give away, swelling, grinding, use of a cane for ambulation, and loss of full ROM. The VA compensation and pension (C&P) exam, three months prior to separation, documented a history of constant knee pain ranging from 3/10 to 8/10, with walking, standing, running or stair climbing; intermittent locking, giveaway and swelling. Key findings were an antalgic gait, pain-limited ROM and a negative McMurray exam for meniscal tear. The examiner further noted that the CI had osteoarthritis and this condition would “deteriorate over time.”

The PEB coded the left knee pain with grade II chondromalacia 5010-5003 (arthritis due to trauma, analogized to arthritis, degenerative [hypertrophic or osteoarthritis]) rated at 10%. The VA coded the post-operative residuals osteoarthritis of left knee 5262-5010 (tibia and fibula, impairment of with slight knee or ankle disability, analogized to arthritis due to trauma) rated at 10%. The PEB and the VA chose different coding options, but this did not bear on rating. Both exams documented history of give away, locking, and swelling and pain with objective antalgic gait. At the MEB exam, the CI required the use of a cane for ambulation. The CI had partial medial meniscectomy and symptoms of swelling and give-way, in addition to pain limited ROM. The Board considered dual rating the knee with coding of 5010-5003 at 10% and the addition of 5099-5259 cartilage, semilunar, removal of, symptomatic at 10%. However, coding all of the CI’s knee pathology and disability under 5010-5262 (tibia and fibula, impairment of) with moderate knee disability rated at 20% appeared predominate. After due deliberation, considering all of the evidence and mindful of VASRD §4.3 (reasonable doubt), the Board recommends a separation rating of 20% coded as 5010-5262 for the left knee pain with grade II chondromalacia and history of meniscal repair condition.

Remaining Conditions. Other conditions identified in the DES file were anemia, beta thalassemia and inguinal hernia repair, right knee pain, chronic low back pain, asthma (VA 10%), hearing loss right ear, insomnia, leg cramps, chest pain and frequent severe headaches (VA 10%). Several additional non-acute conditions or medical complaints were also documented. None of these conditions were significantly clinically or occupationally active during the MEB period. The unilateral sensorineural hearing loss carried a permanent H2 profile; however, none of the other conditions carried attached profiles and none of the conditions were implicated in the commander’s statement. These conditions were reviewed by the action officer and considered by the Board. The Board considered if any right knee pain limitations were overshadowed by the unfitting left knee condition but there was scant evidence in the record for complaints or treatment of the right knee. It was determined that none of the conditions could be argued as unfitting and subject to 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 left knee pain with grade II chondromalacia condition, the Board unanimously recommends a rating of 20% coded 5010-5262 IAW VASRD §4.71a. In the matter of the frequent severe headaches, asthma, anemia, beta thalassemia, inguinal hernia repair, right knee pain, chronic low back pain, hearing loss right ear, insomnia, leg cramps, and chest pain, 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 recommends that the CI’s prior determination be modified as follows, effective as of the date of his prior medical separation:

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| **UNFITTING CONDITION** | **VASRD CODE** | **RATING** |
| Left Knee Pain w/Grade II Chondromalacia w/History of Meniscal Surgery | 5010-5262 | 20% |
| **COMBINED** | **20%** |

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The following documentary evidence was considered:

Exhibit A. DD Form 294, dated 20110323, w/atchs.

Exhibit B. Service Treatment Record.

Exhibit C. Department of Veterans' Affairs Treatment Record.

 President

 Physical Disability Board of Review

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SFMR-RB

DEPARTMENT OF THE ARMY

ARMY REVIEW BOARDS AGENCY

1901 SOUTH BELL STREET 2ND FLOOR

ARLINGTON, VA 22202-4508

05 DEC 2011

MEMORANDUM FOR Commander, US Army Physical Disability Agency

(TAPD-ZB *I* 2900 Crystal Drive, Suite 300, Arlington, VA 22202

SUBJECT: Department of Defense Physical Disability Board of Review Recommendation

for AR20110023312 (PD201100123)

1. I have reviewed the enclosed Department of Defense Physical Disability Board of

Review (000 PDBR) recommendation and record of proceedings pertaining to the

subject individual. Under the authority of Title 10, United States Code, section 1554a,

I accept the Board's recommendation to modify the individual's disability rating to 20%

without recharacterization of the individual's separation. This decision is final.

2. I direct that all the Department of the Army records of the individual concerned be

corrected accordingly no later than 120 days from the date of this memorandum.

3. I request that a copy of the corrections and any related correspondence be provided

to the individual concerned, counsel (if any), any Members of Congress who have

shown interest, and to the Army Review Boards Agency with a copy of this

memorandum without enclosures.

BY ORDER OF THE SECRETARY OF THE ARMY:

Encl

CF:

( ) 000 PDBR

( ) OVA

Deputy Assistant Secretary

(Army Review Boards)