RECORD OF PROCEEDINGS

PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXXXXXXXXX BRANCH OF SERVICE: air force

CASE NUMBER: PD1100153 SEPARATION DATE: 20040705

BOARD DATE: 20120118

SUMMARY OF CASE: Data extracted from the available evidence of record reflects that this covered individual (CI) was an active duty Staff Sergeant/E-5 (3E751, Firefighter), medically separated for trigeminal neuralgia*.* He did not respond adequately to treatment and was unable to perform within his Air Force Specialty (AFS). He was issued a permanent P4 profile restricting his use of his respirator mask and underwent a Medical Evaluation Board (MEB). Trigeminal neuralgia was forwarded to the Physical Evaluation Board (PEB) as medically unacceptable IAW AFI 48-123. No other conditions appeared on the MEB’s submission. Other conditions included in the Disability Evaluation System (DES) packet will be discussed below. The PEB adjudicated the trigeminal neuralgia condition as unfitting, rated 10%, with application of Department of Defense Instruction (DoDI) 1332.39 and Veterans Administration Schedule for Rating Disabilities (VASRD). The CI made no appeals and was medically separated with a 10% combined disability rating.

CI CONTENTION: The CI states: “When confronted with options by Wilford Hall neurology and MEB board, was counseled that ‘it was easiest to claim only the trigeminal neuralgia, and not complicate things.’ This advice was taken and acted upon in good faith. Only later when in the VA system, did the full weight of that decision become apparent. The trigeminal neuralgia was only one symptom from an accident during military experiences that included an array of chronic symptoms and disability to include: posttraumatic stress disorder (PTSD), chronic headaches, depression, nightmares, joint problems, severe and chronic pain, etc. Though trigeminal neuralgia was identified as the primary causation for separation, it was in fact only one symptom of a much larger problem that continues to exist on a daily basis. Secondly, total active military service included time in the US Navy and US Coast Guard, which included accidents and physical events related to military service. When joining the Air Force, these injuries were not disqualifying, but when being reviewed for medical separation, only one symptom and events from service with the Air Force were considered, the possible relation or total sum of injuries was not assessed.” He additionally lists all of his VA conditions and ratings as per the rating chart below. A contention for their inclusion in the separation rating is therefore implied.

RATING COMPARISON:

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Service PEB – Dated 20040414** | | | **VA (~3 Mo. Pre Separation) – All Effective Date 20040703** | | | |
| **Condition** | **Code** | **Rating** | **Condition** | **Code** | **Rating** | **Exam** |
| Trigeminal Neuralgia | 8405 | 10% | Trigeminal Neuralgia | 8405 | 10% | 20041116 |
| ↓No Additional MEB/PEB Entries↓ | | | TMJ Dysfunction | 9905 | 20%\* | 20041116 |
| Bilateral Tinnitus | 6260 | 10% | 20041116 |
| Bilateral Plantar Fasciitis | 5276 | 10% | 20041116 |
| 0% x 3\*\*/Not Service Connected x 12 | | | 20041116 |
| **Combined: 10%** | | | **Combined: 40%\*\*\*** | | | |

PTSD at 50% added effective 20040813; 70% effective 20060801; \* TMJ increased to 30% effective 20090622; \*\* Lumbar strain increased from 0% to 20% effective 20090318. ;\*\*\*70% from 20040813; 80% from 20060801; 90% from 20090318

ANALYSIS SUMMARY: The CI contention suggests that Service ratings should have been conferred for other conditions documented at the time of separation. 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. The Department of Veterans’ Affairs (DVA), however, is empowered to compensate all service connected conditions without fitness consideration 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. It is noted for the record that the Board has neither the jurisdiction nor authority to scrutinize or render opinions in reference to the CI’s statements in the application regarding medical care or suspected DES improprieties in the processing of his case.

Facial Pain Condition. The CI served in the Coast Guard (CG), Navy and Air Force (AF) throughout his ten year combined service. In 1998, while a recruit in training for the CG, the CI suffered a vasovagal syncopal episode falling forward onto his face (earlier that morning, the bunkmate above him had hit him in the face while getting out of the bunk). CI received emergent care for conditions including a chin laceration, trauma to his teeth and new onset bilateral temporomandibular joint (TMJ) pain. The CI was deemed fit for duty and allowed to complete training. After this incident, he sought care only once for TMJ pain until September 2002 when he underwent a comprehensive temporomandibular disorder (TMD) evaluation by a dental specialist. The CI had had a six month history of right facial pain especially with chewing and when wearing his firefighters respirator mask. This exam revealed a tender right TMJ joint with popping, bilateral masseter muscle pain and a normal oral aperture of 47mm. He was diagnosed with right TMJ inflammation and myofascial pain. After conservative treatment, the TMJ symptoms appeared to be quiescent until August 2003 when recurrent, predominantly right sided TMJ pain associated with right sided headache was documented. At this time CI was treated with both intra-articular and trigger point injections as well as prescribed chronic pain medications. An October 2003 examination recorded a 47mm active opening distance. There was continued right jaw pain and right facial pain occurring frequently; headache was reported as sporadic at twice per week. Other consultants to include physical therapy and occupational therapy became involved to achieve a multidisciplinary treatment approach. With these modalities and his profile the CI noted the intense stabbing pain had lessened. However, the dull pain was still present. Throughout all these treatment records, his weight was maintained at 165 lbs. The neurology narrative summary (NARSUM) examination, completed three months prior to separation, noted painful triggers included wearing his respirator mask, shaving, and brushing his teeth. The pain was described as very sharp and electric-like and “can be so severe when it hits that his face involuntarily twitches.” It was also stated that “when wearing a mask the pain is constant in nature.” CI had also noted numbness around the right nose and maxilla for several months, and his pain was worse when he was not taking his medications. The examination demonstrated decreased sensation in the V2 distribution of the right trigeminal nerve (cheek bone to upper lip; maxillary branch; purely sensory), but no documented motor loss. A magnetic resonance image (MRI), 1 December 2003, of the TMJs revealed small bilateral mandibular condyle osteophytes. The menisci were in a normal position in both the open and closed mouth position without evidence of meniscal subluxation or dislocation, and the translation of the mandibular condyles (forward gliding movement with opening) was normal in appearance. The MRI was otherwise unremarkable. The neurologist opined the CI had classic lancinating pain triggers of the distribution of trigeminal nerve with an atypical sensory loss. He recommended a trial of the medication Tegretol and if this was not successful to consider other definitive treatment options. The Board notes that the occupational physicians caring for the CI were also concerned that the underlying problem was secondary to trigeminal neuralgia rather than TMD. The PEB adjudicated trigeminal neuralgia as unfitting, coded 8405, and rated it at 10%. The CI concurred with the PEB and did not appeal. The VA Compensation and Pension (C&P) examination completed four months after separation documented facial pain triggered by shaving and brushing his teeth, attributed to his trigeminal neuralgia, lasting from seconds to days. With regards to his TMD, CI had pain with chewing 3/10 up to 6/10 and noted locking of the jaw. He resorted to eating soft foods and reported he had lost 20 pounds of weight from 185 to 165 pounds at the time of the C&P examination. The TMJ pain was noted to be worse on the right than left. The exam demonstrated an oral opening of 25 mm, with the ability to move it 6 mm to the right and 8 mm to the left, limited by pain. There was TMJ clicking, worse on the right than left. The C&P examiner made no comments with regard to occupational problems relating to his facial pain condition. A psychiatry evaluation the same day recorded occupational problems related to a diagnosis of PTSD (discussed below). Although the CI reported a 20 pound weight loss, service records document stable weights of 165 pounds over several years leading up to separation, no different than the 165 pound weight reported at the time of the C&P examination. Further, VA records document weight gain to 185 pounds over the year after the C&P examination. The VA adjudicated the trigeminal neuralgia identically, but added TMD, coded 9905, and rated it 20% for limited jaw opening. Although the PEB did not specifically adjudicate the TMD condition, it was presented in the MEB evidence before the PEB. The TMD and trigeminal neuralgia conditions were intertwined problems and the Board first considered whether the TMD condition was a separately unfitting condition. The Board’s threshold for countering DES fitness determinations is higher than the VASRD §4.3 (reasonable doubt) standard used for its rating recommendations, but remains adherent to the DoDI 6040.44 “fair and equitable” standard. In the NARSUM, the neurologist opined the facial pain was from an atypical trigeminal neuralgia. At the request of the CI, the oral surgeon prepared a memorandum that was submitted to the MEB/PEB in which he opined that he did not concur with the trigeminal neuralgia diagnosis and stated that his current impression was that of an intra-articular disorder with secondary myalgia and neural compression. TMD and trigeminal neuralgia have overlapping symptoms and the orofacial surgeon and neurologist rendered different diagnoses based on the same symptoms. The Board agreed that the evidence supported facial pain preventing wear of required protective gear which was the unfitting impairment that resulted in CI’s permanent profile. With respect to TMD, the CI sought care intermittently and responded to conservative treatment measures for over five years. At the time of the MEB, dental entries noted limited jaw opening. There was not any documented weight loss due to impaired ability to eat. MRI of the TMJs documented mild anatomic pathology. Wearing of the protective gear aggravated the facial pain regardless of etiology, TMD or trigeminal neuralgia. Limited jaw opening did not interfere with duty performance or result in inadequate nutrition. The Board concluded that trigeminal neuralgia was most consistent with CI’s inability to wear the respirator required for his duties and that the TMD, while symptomatic, did not rise to the level of being a separately unfitting condition. All evidence considered there is not reasonable doubt in the CI’s favor supporting addition of TMD as a separately unfitting condition for separation rating. The Board then directed its attention to the rating recommendation for trigeminal neuralgia. The only guidance to distinguish between these ratings was to note the relative degree of sensory manifestation or motor loss. There was documented mild atypical sensory loss but no motor loss. The Board therefore deliberated between the 10% moderate and the 30% severe rating. The Board noted the continued good duty performance despite CI’s painful condition, limited only by inability to wear the respirator or gas mask. All evidence considered, there is not reasonable doubt in the CI’s favor supporting recharacterization of the PEB fitness adjudication for trigeminal neuralgia.

Other Contended Conditions: The CI’s application asserts that compensable ratings should be considered for depression, PTSD, bilateral plantar fasciitis, bilateral tinnitus, lumbosacral strain, and migraine headaches. PTSD was diagnosed five months after separation by the VA at which time the CI reported PTSD symptoms for approximately ten years, worse in the prior three years. There is no mention of PTSD or depression throughout the service treatment record or anywhere in the DES file. The commander’s statement reflected excellent duty performance. Headaches were documented in association with the TMD condition and are subsumed in the discussion of the unfitting facial pain/trigeminal neuralgia. The C&P examiner on 16 November 2004 noted that headaches had not caused the CI to miss any work. Bilateral plantar fasciitis, bilateral tinnitus, and lumbosacral strain were mentioned in service treatment records however none of these conditions were in the DES file nor were clinically or occupationally significant during the MEB period. There was no evidence for concluding that any of the conditions interfered with duty performance to a degree that could be argued as unfitting. 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 of these conditions as additionally unfitting for separation rating.

Remaining Conditions: No other conditions were noted in the NARSUM, or found elsewhere in the DES file. The Board notes that tinea pedis, hip and knee conditions, decreased hearing and additional non-acute conditions or medical complaints were also documented in the VA rating decision. 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. As discussed above, PEB reliance on DoDI 1332.39 for rating the right facial pain condition was operant in this case and the condition was adjudicated independently of that instruction by the Board. In the matter of the right facial pain condition, the Board unanimously recommends no change in the PEB adjudication. In the matter of the TMD, PTSD, lumbosacral strain, bilateral plantar fasciitis, bilateral tinnitus or any other condition 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** |
| Trigeminal Neuralgia | 8405 | 10% |
| **COMBINED** | **10%** |

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The following documentary evidence was considered:

Exhibit A. DD Form 294 dated 20110322, w/atchs

Exhibit B. Service Treatment Record

Exhibit C. Department of Veterans' Affairs Treatment Record

XXXXXXXXXXXXX

President

Physical Disability Board of Review

SAF/MRB

1500 West Perimeter Road, Suite 3700

Joint Base Andrews MD 20762

Dear XXXXXXXXXXXXX :

Reference your application submitted under the provisions of DoDI 6040.44 (Title 10 U.S.C. §  1554a), PDBR Case Number PD-2011-00153.

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