RECORD OF PROCEEDINGS

PHYSICAL DISABILITY BOARD OF REVIEW

NAME: BRANCH OF SERVICE: Army

CASE NUMBER: PD1100390 SEPARATION DATE: 20080226

BOARD DATE: 20120330

SUMMARY OF CASE: Data extracted from the available evidence of record reflects that this covered individual (CI) was an active duty SGT/E5 (25Q20 Multi-Channel Systems Operator/ Maintainer), medically separated for anxiety disorder and bilateral tibial stress fractures. The CI sought mental health care for difficulty sleeping, nightmares and irritability after returning from Iraq in June 2005, and his symptoms worsened after a second deployment in 2006. The CI also had a 4 year history of bilateral shin pain exacerbated by activity which was diagnosed and treated as tibial stress fractures. He did not respond adequately to treatment for either the anxiety disorder condition or the bilateral tibial stress fracture condition and was unable to perform with his Military Occupational Specialty (MOS) or meet physical fitness standards. He was issued a permanent L3/S4 profile and underwent a Medical Evaluation Board (MEB). Anxiety disorder and tibial stress fractures were forwarded to the Physical Evaluation Board (PEB) as medically unacceptable IAW AR 40-501. Eight other conditions, as identified in the rating chart below, were forwarded on the MEB submission as medically acceptable conditions. The PEB adjudicated the anxiety disorder condition and bilateral tibial stress fracture condition as unfitting, rated 10% and 0% respectively, with application of the Veterans’ Administration Schedule for Rating Disabilities (VASRD) and US Army Physical Disability Agency (USAPDA) pain policy. The CI appealed for a Formal PEB (FPEB), but later withdrew his appeal and was medically separated with a 10% combined disability rating.

CI CONTENTION: The CI states: “The Medical evaluation board did not want to give me the diagnosis of PTSD and assigned me the diagnosis of Anxiety Disorder NOS. This is contrary to several diagnoses given throughout my military career and afterward by the Department of Veterans Affairs with a rating of 50%. I was going to appeal the Board Decision but my counsel at the time provided by JAG stated that the VA would give me a higher rating and that I should just be happy with what I got. Officers and Non-commissioned Officers let me know that my life would be extremely difficult if I chose to fight the Board’s finding, i.e. CQ Duty and Less than pleasurable details within the confines of my profile. I believe this is the opportunity to have outside eyes look at my finding and determine whether they were fair or not. I believe they were no where near fair and that the Army was just trying to save face in their evaluation and dance around the determination of PTSD. There are occupations that I cannot work in such as Law Enforcement, because of my condition and the inability to pass a Psychological Evaluation. This condition also prevented me from advancing in my military career and making the leap from Enlisted to Warrant Officer. My military career ended the moment I opened my mouth about my conditions and nightmares. I will not bore this board with my tragedy but I will beseech the board to reconsider my rating and to look at the bigger picture. My VA findings show service connections for most of the things that the Army MEB Denied. My medical records, which are far too thick to fit in a envelope, will show that I was rated unfairly. I believe that a 45-minute review of this case is not long enough to gather sufficient evidence in support of my claims, but I have done my best to gather what I have. Thank you for your time and consideration.” 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(revised) – Dated 20080403** | | | **VA (2 Mo. After Separation) – All Effective Date 20080227** | | | |
| **Condition** | **Code** | **Rating** | **Condition** | **Code** | **Rating** | **Exam** |
| Anxiety Disorder | 9413 | 10% | PTSD | 9411 | 50% | 20080422 |
| Tibial Stress Fractures | 5099-5003 | 0% | No VA Entry | | | |
| Neck Pain | Not Unfitting | | Cervical Spine Condition | 5237 | 10% | 20080422 |
| Tinnitus | Not Unfitting | | Bilateral Tinnitus | 6260 | 10% | 20080416 |
| Headaches | Not Unfitting | | Headaches | 8100 | NSC | 20080422 |
| Plantar Fasciitis | Not Unfitting | | Bilateral Plantar Fasciitis | 5276-5220 | NSC | 20080422 |
| Left Corneal Scar | Not Unfitting | | No VA Entry | | | |
| Metatarsalgia | Not Unfitting | | No VA Entry | | | |
| Bladder Neck Dysfunction | Not Unfitting | | No VA Entry | | | |
| Hematochezia | Not Unfitting | | No VA Entry | | | |
| ↓No Additional MEB/PEB Entries↓ | | | Right Ankle Sprain | 5271 | 10% | 20080422 |
| Left Ankle Sprain | 5271 | 10% | 20080422 |
| 0% x 6/Not Service Connected x 7 | | | |
| **Combined: 10%** | | | **Combined: 70%** | | | |

ANALYSIS SUMMARY: The Board acknowledges the sentiment expressed in the CI’s application regarding the significant impairment with which his service-incurred condition continues to burden him. 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 Veterans’ Affairs (DVA), operating under a different set of laws (Title 38, United States Code). The Board evaluates DVA 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. The Board further acknowledges the CI’s contention for service ratings for other conditions documented at the time of separation, and notes that its recommendations in that regard must comply with the same governance. 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 DVA, however, is empowered to compensate all 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. The Board also acknowledges the CI’s assertions of procedural improprieties. It is noted for the record that the Board has neither the jurisdiction nor authority to scrutinize or render opinions in reference to asserted service improprieties in the disposition of a case. The Board’s role is confined to the review of medical records and all evidence at hand to assess the fairness of PEB rating determinations, compared to VASRD standards, based on severity at the time of separation. It must also judge the fairness of PEB fitness adjudications based on the fitness consequences of conditions as they existed at the time of separation.

Psychiatric Condition: In June 2005 the CI developed nightmares, irritability, marital discord and auditory hallucinations (hearing a phone ringing) after returning from a deployment to Iraq. He was treated with two medications and his symptoms improved. When he arrived at his new unit in November 2005, that unit was preparing to deploy, and he returned to Iraq in January 2006 with this new unit. He was seen by psychiatry prior to deployment and the examiner noted decreased posttraumatic stress disorder (PTSD) symptoms, although he still endorsed irritability, low energy, amotivation, difficulty concentrating, and anhedonia for the previous 6 weeks. He also continued to have hypervigilance and startling easily but these were also noted to be improved. He continued to hear a phone ringing even when it wasn’t. The CI reportedly stated he was ready to deploy. The examiner noted a normal mental status examination (MSE) with a current global assessment of function (GAF) of 61-70 and cleared him for deployment with a 6-month supply of the following medications: Prozac and Seroquel. The CI became hypervigilant and his nightmares returned. In August 2006 he received a Red Cross message concerning his wife’s mental health, but his unit did not allow him to return home on leave to be with her until a month later. During that month his nightmares worsened and he developed chest pain, shortness of breath, anxiety, headaches and vomiting. He was treated with combat stress counseling and anti-anxiety medication. The CI sought mental health care when he returned home in September 2006 for symptoms that included nightmares, insomnia, irritability, anger, hypervigilance while driving, and forgetfulness. Multiple visits with a clinical psychologist during the next few months document a GAF between 45 and 50 (serious symptoms), with a diagnosis of chronic PTSD and depression. However on 1 November 2006 a psychiatrist diagnosed the CI with adjustment disorder with disturbance of emotions and conduct instead of PTSD, stating “the PEB requires in theater commander verification of traumatic events and completed LOD with sworn statements regarding the event to adjudicate a case of PTSD.” However, 2 days later, the clinical psychologist stated “additionally there are two clinical notes in AHLTA written by patient’s psychiatrist in Germany that describe carefully considering all diagnostic criteria for PTSD, concluding that all criteria were met and that the patient was diagnosed with PTSD from August and October 2005.” (These notes are not available to the Board). The clinical psychologist further stated that the CI “clearly meets criteria for a diagnosis of PTSD.” The CI had been diagnosed with PTSD and had been undergoing treatment prior to his second deployment. No additional highly stressful event is required to determine that his chronic PTSD symptoms had worsened after his second deployment. The CI continued treatment with counseling and medication over the next 8 months but continued to have significant symptoms and anger directed at his command. Neuropsychological testing in May 2007 found no evidence of traumatic brain injury (TBI) but “significant emotional distress (anxiety, depression, anger, irritability) on assessment of personality and emotional functioning, along with somatization tendencies.” The treatment record does indicate that somatic symptoms such as chest tightness, sweating, headaches, and vomiting frequently accompanied the CI’s symptoms of anxiety.

The CI underwent a psychiatric MEB NARSUM on 17 September 2007, 5 months prior to separation. The examiner noted that in 2005 the CI had been treated for adjustment disorder with disturbances of emotions and conduct, but the treating psychiatrist stated “on initial evaluation, he did not meet full criteria for PTSD but, on further review, on his last appointment he did meet the full criteria.” The examiner noted a family history of PTSD and schizophrenia in the father, depression in the mother, and autism in a sibling. Also the CI’s wife had recently been separated from the Army for dysthymia. At the time of the MEB the CI’s symptoms included difficulty sleeping, irritability, inability to tolerate social situations, anger with aggressive fantasies towards his chain of command, and anxiety with sweating, trembling, racing heart, nausea and other somatic manifestations. The CI was working in his unit in an administrative capacity but was prevented from using weapons. The CI was taking three psychiatric medications (Zoloft, Wellbutrin, and Seroquel) and continuing in group and individual therapy for PTSD. On MSE, his mood was mildly to moderately anxious and irritable and the affect was appropriate. There was no suicidal ideation, delusional or hallucinatory symptoms, speech disturbance, objective cognitive impairment or other abnormalities. The examiner assigned a GAF of 60 (moderate symptoms), and diagnosed “anxiety disorder, not otherwise specified as manifested by both panic attacks and PTSD symptoms to include episodes of acute anxiety on a weekly basis.” The examiner opined that there was definite social and industrial impairment and that if the CI were to “deploy again or be exposed to combat or other traumatic experiences, his symptoms would be exacerbated.” The PEB found the CI unfit for anxiety disorder, code 9413, at 10% for symptoms controlled with medication, noting “command notes that this condition does not affect his productivity, works independently, has appropriate relationships and works full time.”

At the 22 April 2008 VA Compensation and Pension (C&P) psychiatric examination, 2 months after separation, the CI’s symptoms included nightmares, insomnia, depression, irritability, panic attacks, hypervigilance, and mood swings. He occasionally heard a phone ringing, and “has an obsession to keep things clean and straight.” The examiner noted that the CI had been sexually molested by his grandfather but that the CI stated “he does not have PTSD symptoms because of that molestation.” The CI had no friends other than his wife’s family and “he indicated he actually has no fun in his life.” The CI was not working but was a full time student maintaining a 4.0 grade point average. All of his classes were online and did not require any social interaction with others. The CI was not taking any medications or attending counseling but he had just separated from active service. On MSE the CI was tense and hyperactive. His affect was excited. There was no suicidal ideation, delusional or hallucinatory symptoms, speech disturbance, objective cognitive impairment or other abnormalities. Psychometric testing showed elevated schizophrenia and PTSD scores. The examiner diagnosed PTSD and bipolar disorder and assigned a GAF of 50 (serious symptoms). The examiner noted the CI had been awarded the combat action badge and further opined that “this individual’s PTSD considered in isolation accounts for a GAF of 50. This Veteran does have significant occupational and social impairment.” The Veterans Administration Rating Decision (VARD) of 9 May 2008 assigned a rating of 50% for PTSD, code 9411. This was considered a permanent rating and no future examination was recommended.

The Board agreed that the CI’s symptoms while on active duty best fit a diagnosis of PTSD and not anxiety disorder. The diagnosis of chronic PTSD is documented in his AHLTA record as early as 15 December 2005. The CI had been treated following his first deployment for PTSD that was diagnosed by a psychiatrist. After his second deployment he was diagnosed and treated for PTSD by a clinical psychologist. The treating clinical psychologist stated that the CI “clearly meets criteria for a diagnosis of PTSD.” The MEB psychiatrist, in his diagnosis, stated the CI had an anxiety disorder manifested by “posttraumatic stress symptoms” and then goes on to list these symptoms in a paragraph that, in the Board’s opinion, perfectly describes the clinical criteria for the diagnosis of PTSD. The CI’s descriptions of his traumatic events on his first deployment are consistent across examinations. The CI was awarded the combat infantry badge as well as an Army commendation medal for engaging insurgents on 24 January 2004. The Board concluded that regardless of the diagnosis there was adequate evidence to support that the psychiatric condition was a result of a “highly stressful event” and that this case did meet the requirements for application of a retroactive TDRL rating IAW VASRD §4.129, as directed by DoD for PTSD and similar cases.

The PEB rating, as described above, was derived from DoDI 1332.39 and preceded the promulgation of the National Defense Authorization Act (NDAA) 2008 mandate for DoD adherence to VASRD §4.129. IAW DoDI 6040.44 and DoD guidance (which applies current VASRD 4.129 to all Board cases), the Board is obligated to recommend a minimum 50% PTSD rating for a retroactive 6-month period on the TDRL. The Board must then determine the most appropriate fit with VASRD 4.130 criteria at 6 months for its permanent rating recommendation. The most proximate source of comprehensive evidence on which to base the permanent rating recommendation in this case is the VA C&P examination performed 2 months after separation. There was no relevant VA outpatient or civilian provider evidence providing psychiatric details during the 6-month interval. The VA psychiatric C&P examination was proximate to separation and premature for the 6-month rating benchmark, but was completed after separation from service and was completed approximately 6 months after the MEB NARSUM examination. The MEB evaluation itself provides a useful baseline and is assigned relevant probative value in the Board’s efforts to arrive at a fair initial rating recommendation. The probative value of the VA examination; however, is strengthened on the principle that it reflects the stress of transition to civilian life which is intrinsic to the Board’s permanent rating recommendation.

The Board directs its attention to its rating recommendations based on the evidence just described. All members agreed that the §4.130 criteria for a rating higher than 50% were not met at the time of the MEB NARSUM examination or separation, and therefore the minimum 50% TDRL rating (as explained above) is applicable IAW §4.129. As regards the permanent rating recommendation, all members agreed that the §4.130 threshold for a 10% rating was clearly exceeded. Countering a 10% recommendation, the GAF assignment, symptom description and clinical course argue against a characterization of the severity as mild or transient, and it is clear that symptoms were not completely controlled on medication. The evidence does not provide a correlation of acuity with degree of stress, and that element of the 10% description is thus not relevant. The deliberation settled on arguments for a 50% versus a 30% permanent rating recommendation. The 30% description (“occupational and social impairment with occasional decrease in work efficiency and intermittent periods of inability to perform occupational tasks”) is a better fit with the occupational functioning in evidence because decreased efficiency can be assumed even though reliability and productivity were not affected. The CI was not working but was attending school full time and doing well. However, all of his classes were online and did not require any direct interaction with other people. In addition to the general descriptions of occupational and social impairment, the §4.130 general formula fleshes out each rating description with a list of features or symptoms as examples for this level of impairment. This helps to determine a potential level of psychiatric impairment regardless of how well or poorly the veteran is actually faring with work and social activities at the time. Of nine such descriptors under the 50% rating, one was present at the MEB exam and two were present at the C&P exam. Of six such descriptors under the 30% rating, five were present at the MEB exam and six were present at the C&P exam. The Board deliberated if the CI’s auditory hallucinations supported a 100% rating recommendation, although the preponderance of the hard evidence favors a 30% rating strictly IAW VASRD §4.130. After due deliberation, considering the totality of the evidence and mindful of VASRD §4.3 (reasonable doubt), the Board recommends a permanent PTSD disability rating of 30% in this case. Although some elements of the 50% rating were in evidence, the CI’s overall disability picture more closely approximates the 30% level.

Bilateral Tibial Stress Fracture Condition. The CI developed bilateral shin pain in September 2003. He was treated with medication, physical therapy, and limitation of activities but his symptoms persisted. He was unable to run or do prolonged marching, and occasionally developed numbness in his feet. He was evaluated for exercise-induced compartment syndrome, but no diagnosis was made. In April 2007 he was diagnosed with bilateral tibial stress fractures with radiographs that showed bilateral cortical thickening but no fracture line. In spite of rest, he continued to have pain. He was assigned a permanent L3 profile with restrictions to include no running or rucksack marching. At the 25 July 2007 MEB orthopaedic addendum examination, 7 months prior to separation, the CI complained of bilateral shin pain with activities. On examination, there was tenderness directly over each tibia. Neurological and vascular examinations were normal, and the muscle compartments were soft. The gait was normal. Range-of-motion (ROM) was not measured. Radiographs showed bilateral periosteal reaction consistent with healing stress fractures. The examiner diagnosed bilateral tibial stress fractures and opined that the CI would not improve with further treatment. The PEB found the bilateral tibial stress fractures, VA code 5099-5003, unfitting at 0% for minimal/infrequent pain IAW USAPDA policy.

At the 22 April 2008 VA C&P evaluation, 2 months after separation, the CI had no complaints of shin pain, though he did complain of Achilles tendon pain, plantar fasciitis, bilateral foot pain, bilateral ankle pain, and bilateral knee pain. On examination there was a normal gait and no tenderness to palpation at the ankles. There was some pain in both ankles medially and laterally with ankle motion, not over the tibias. ROM is shown in the chart below. Radiographs of the ankles were normal. The examiner diagnosed bilateral ankle sprains. The 9 May 2008 VARD assigned a 10% rating for each ankle sprain due to moderate limited motion of the ankle, VA code 5271.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Goniometric ROM –  Bilat Ankles | MEB ~ 7 Months Pre-Sep  (20070725) | | VA C&P ~ 2 Months After-Sep  (20080422) | |
| Left | Right | Left | Right |
| Dorsiflexion (0-20) |  |  | 15⁰ | 15⁰ |
| Plantar Flexion (0-45) |  |  | 35⁰ | 35⁰ |
| Comment | Not measured | Not Measured |  |  |
| §4.71a Rating |  |  | Moderate 10% | Moderate 10% |

The Board directs its attention to its rating recommendations based on the evidence just described. The Board noted that the CI’s stress changes could also be rated similar to shin splints. Shin splints analogizes to code 5262 (impairment of tibia and fibula) per analogous codes from medical EPSS. A 10% rating under code 5262 requires slight knee or ankle disability. The Board agreed that the CI’s persistent tibial pain with activities would best be described as a slight/moderate disability at the time of the MEB evaluation, given the CI’s normal gait. After due deliberation, considering all of the evidence and mindful of VASRD §4.3 (reasonable doubt), the Board recommends a TDRL rating of 10% for each tibial stress fracture condition. As for the permanent disability rating, the Board noted that at the time of the VA C&P evaluation the CI had no complaints of tibial pain. While he did have some ankle pain with motion, this pain was confined to the ankle joint not to the tibia itself. Radiographs were also normal. The Board determined that the evidence suggested that in the 9 month interval between the MEB and VA C&P examinations that the stress fractures had healed. As the tibial stress fractures were asymptomatic at the time of the VA C&P examination, the Board concluded that there was insufficient cause to recommend a change in the PEB adjudication of 0% each for the permanent rating of the right and left tibial stress fracture conditions.

Other PEB Conditions. The other conditions forwarded by the MEB and adjudicated as not unfitting by the PEB were hematochezia, bladder neck dysfunction, plantar fasciitis, metatarsalgia, corneal scar, neck pain, headaches, and tinnitus. Plantar fasciitis was profiled to allow shoe inserts. None of the other conditions were profiled and none of the above conditions were implicated in the commander’s statement or noted as failing retention standards. All 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 duty performance. All evidence considered, there is not reasonable doubt in the CI’s favor supporting recharacterization of the PEB fitness adjudication for any of the stated conditions.

Other Contended Conditions. The CI’s application asserts that compensable ratings should be considered for right ankle sprain, left ankle sprain, low back strain, right shoulder sprain, left shoulder sprain, bilateral pes planus, right knee sprain and left knee sprain. None of these conditions were clinically significant during the MEB period, none carried attached profiles, and none were implicated in the commander’s statement. All of these conditions were reviewed by the action officer and considered by the Board. There was no evidence for concluding that any of the conditions interfered with duty performance to a degree that could be argued as unfitting. All evidence considered, there is not reasonable doubt in the CI’s favor supporting recharacterization of the PEB fitness adjudication for any of the stated conditions.

Remaining Conditions. Other conditions identified in the DES file included shortness of breath with exertion, hemorrhoids, frequent or painful urination, sinusitis, arm numbness, chest tightness, and left great toe fracture. Several additional non-acute conditions or medical complaints were also documented. None of these conditions were clinically significant 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. No other conditions were service-connected with a compensable rating by the VA within 12 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 as discussed above, PEB reliance on DoDI 1332.39 for rating the CI’s mental health condition and on the USAPDA pain policy for rating bilateral tibial stress fractures was operant in this case and the conditions were adjudicated independently of that instruction and policy by the Board. In the matter of the PTSD condition, the Board unanimously recommends an initial TDRL rating of 50% in retroactive compliance with VASRD §4.129 as DOD directed and, by simple majority, recommends a 30% permanent rating at 6 months IAW VASRD §4.130. The single voter for dissent (who recommended a 50% permanent rating) did not elect to submit a minority opinion. In the matter of the right and left tibial stress fracture conditions, the Board unanimously recommends an initial TDRL rating of 10% for each coded 5262; and a 0% permanent rating for each at 6 months IAW VASRD §4.71a. In the matter of the multiple conditions discussed above as other PEB, other contended, and remaining conditions; 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: TDRL at 60% for 6 months following CI’s prior medical separation (PTSD at minimum of 50% IAW §4.129 and DoD direction) and then a permanent combined 30% disability retirement as below.

|  |  |  |  |
| --- | --- | --- | --- |
| **UNFITTING CONDITION** | **VASRD CODE** | **RATING** | |
| **TDRL** | **PERMANENT** |
| Post Traumatic Stress Disorder | 9411 | 50% | 30% |
| Right Tibial Stress Fracture | 5262 | 10% | 0% |
| Left Tibial Stress Fracture | 5262 | 10% | 0% |
| **COMBINED** | **60%** | **30%** |

The following documentary evidence was considered:

Exhibit A. DD Form 294, dated 20110505, w/atchs

Exhibit B. Service Treatment Record

Exhibit C. Department of Veterans Affairs Treatment Record

President

Physical Disability Board of Review

SFMR-RB

MEMORANDUM FOR Commander, US Army Physical Disability Agency

SUBJECT: Department of Defense Physical Disability Board of Review Recommendation

1. Under the authority of Title 10, United States Code, section 1554(a), I approve the enclosed recommendation of the Department of Defense Physical Disability Board of Review (DoD PDBR) pertaining to the individual named in the subject line above to constructively place the individual on the Temporary Disability Retired List (TDRL) at 60% disability for six months effective the date of the individual’s original medical separation for disability with severance pay and then following this six month period recharacterize the individual’s separation as a permanent disability retirement with the combined disability rating of 30%.

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:

a. Providing a correction to the individual’s separation document showing that the individual was separated by reason of temporary disability effective the date of the original medical separation for disability with severance pay.

b. Providing orders showing that the individual was retired with permanent disability effective the day following the six month TDRL period.

c. Adjusting pay and allowances accordingly. Pay and allowance adjustment will account for recoupment of severance pay, provide 60 retired pay for the constructive temporary disability retired six month period effective the date of the individual’s original medical separation and then payment of permanent disability retired pay at 30% effective the day following the constructive six month TDRL period.

d. Affording the individual the opportunity to elect Survivor Benefit Plan (SBP) and medical TRICARE retiree options.

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

Deputy Assistant Secretary

(Army Review Boards)