RECORD OF PROCEEDINGS

PHYSICAL DISABILITY BOARD OF REVIEW

NAME: BRANCH OF SERVICE: Army

CASE NUMBER: PD1100402 SEPARATION DATE: 20050908

BOARD DATE: 20120315

SUMMARY OF CASE: Data extracted from the available evidence of record reflects that this covered individual (CI) was an active duty SPC/E-4 (92A, Automated Logistics Specialist) medically separated for a right knee condition. The CI first injured his right knee while jumping over a wall in basic training in 2001. He was ultimately diagnosed with chondromalacia patella and treated conservatively. The knee could not be adequately rehabilitated to meet the physical requirements of his Military Occupational Specialty (MOS) or satisfy physical fitness standards. He was thus issued a permanent L3 profile and referred for a Medical Evaluation Board (MEB). Chondromalacia patella was forwarded to the Physical Evaluation Board (PEB) as medically unacceptable IAW AR 40-501. No other conditions were submitted by the MEB. Other conditions evidenced in the Disability Evaluation System (DES) file will be addressed below. The PEB adjudicated the right knee condition as unfitting, rated 10%, referencing the US Army Physical Disability Agency (USAPDA) pain policy. The CI made no appeals, and was medically separated with a 10% disability rating.

CI CONTENTION:He elaborates no specific contentions and mentions no additionally contended conditions.

RATING COMPARISON:

|  |  |
| --- | --- |
| **Service PEB – Dated 20050815** | **VA (3 Mo. Post-Separation) – All Effective Date 20050909** |
| **Condition** | **Code** | **Rating** | **Condition** | **Code** | **Rating** | **Exam** |
| Chronic Right Knee Pain | 5099-5003 | 10% | Chondromalacia R Knee | 5010-5257 | 10% | 20051220 |
| No Additional MEB/PEB Entries | 0% x 1 / Not Service Connected x 2 | 20051220 |
| **Combined: 10%** | **Combined: 10%** |

ANALYSIS SUMMARY:

Right Knee Condition. After his initial fall, the CI continued to complain of recurrent knee pain. Radiographs were normal. He was initially placed on crutches with progressive weight bearing, followed by anti-inflammatories and physical therapy. He managed a 2002 deployment to Iraq; but, after redeployment he complained of constant pain with occasional swelling and subjective locking. Findings consistent with chondromalacia patella were demonstrated by magnetic resonance imaging in January 2005, and degenerative changes developed on plain x-ray. There were three goniometric range-of-motion (ROM) evaluations in evidence, with documentation of additional ratable criteria, which the Board weighed in arriving at its rating recommendation. The MEB exam was supplemented by an orthopedic addendum; and, the findings of both service examiners, as well as the post-separation Department of Veterans’ Affairs (DVA) Compensation & Pension (C&P) examiner are summarized in the following chart.

|  |  |  |  |
| --- | --- | --- | --- |
| Right Knee ROM | Ortho ~2 Mo. Pre-Sep | MEB ~1 Mo. Pre-Sep | VA C&P ~3 Mo. Post-Sep |
| Flexion (140⁰ Normal) | 140⁰ | > 135⁰ | 130⁰ |
| Extension (0⁰ Normal) | 0⁰ | 0⁰ | 0⁰ |
| Comment | All exams: + tenderness; painful motion stated or assumed; no instability. |
| §4.71a Rating\* | 10% | 10% | 10% |

 \*Conceding §4.59 (painful motion).

At the MEB exam, the CI reported constant slight anterior knee pain. Pain was exacerbated and swelling was precipitated by running, walking, climbing stairs, marching, bending, squatting and wearing combat gear. The physical examination documented a full ROM without signs of cartilage impingement or laxity to stress maneuvers. There was no effusion or mechanical locking. These findings were confirmed by the orthopedic consultant. At the VA C&P exam after separation, the CI continued to report constant pain (rated 4-5 of 10). The VA physical examination documented a normal gait, patellar tenderness without crepitus, and stability to stress testing.

The Board directs attention to its rating recommendation based on the above evidence. The PEB and VA chose different coding options for the condition, but this did not bear on rating. The PEB applied the USAPDA pain policy to rating, but its 10% determination was consistent with §4.71a standards. The PEB’s analogous 5003 (degenerative arthritis) coding option was supported by x-ray evidence. The VA’s hyphenated coding for 5010 (traumatic arthritis) rated as 5257 (knee joint instability) is somewhat enigmatic considering the absence of ratable findings for instability. There was no compensable limitation of ROM or evidence supporting a rating higher than 10% under any of the available joint codes; and, no instability which would support dual ratings under 5257 and another code. After due deliberation, considering all of the evidence and mindful of VASRD §4.3 (reasonable doubt), the Board concluded that there was insufficient cause to recommend a change in the PEB adjudication for the right knee condition.

Remaining Conditions. Other conditions identified in the DES file were headaches, nodular lesions, and hyperlipidemia. 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; 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. 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 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 the USAPDA pain policy for rating the right knee condition was operant in this case; and, the condition was adjudicated independently of that policy by the Board. In the matter of the right knee condition and IAW VASRD §4.71a, the Board unanimously recommends no change in the PEB adjudication. In the matter of the headaches, nodular lesions, and hyperlipidemia, 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** |
| Chronic Right Knee Pain | 5099-5003 | 10% |
| **COMBINED** | **10%** |

The following documentary evidence was considered:

Exhibit A. DD Form 294, dated 20110519, 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

I have reviewed the enclosed Department of Defense Physical Disability Board of Review (DoD 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 and hereby deny the individual’s application.

This decision is final. The individual concerned, counsel (if any), and any Members of Congress who have shown interest in this application have been notified of this decision by mail.

 BY ORDER OF THE SECRETARY OF THE ARMY:

Encl

 Deputy Assistant Secretary

 (Army Review Boards)