RECORD OF PROCEEDINGS

PHYSICAL DISABILITY BOARD OF REVIEW

NAME: BRANCH OF SERVICE: Army

CASE NUMBER: PD1100432 SEPARATION DATE: 20051207

BOARD DATE: 20120119

SUMMARY OF CASE: Data extracted from the available evidence of record reflects that this covered individual (CI) was an active duty SPC/E-4 (91W, Health Care Specialist), medically separated for migraine headaches. She did not respond adequately to treatment and was unable to perform within her Military Occupational Specialty (MOS) or meet physical fitness standards. She was issued a permanent P4 profile and underwent a Medical Evaluation Board (MEB). Migraine headaches were forwarded to the Physical Evaluation Board (PEB) as medically unacceptable IAW AR 40-501. Three other conditions, as identified in the rating chart below, were forwarded on the MEB submission as medically acceptable conditions. The PEB adjudicated the migraine headaches as unfitting, but non-compensable due to association with an existing prior to service pituitary microadenoma. The CI appealed to the Formal PEB (FPEB) who considered expert specialty opinion that the migraines were not related to the pituitary microadenoma and rated the unfitting migraine headache condition at 10%, with application of 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: The CI states: “Continuation of migraines and residual side effects (numbing, tingling of hands, face and legs) sometimes accompanied by sharp pain down left arm. Post surgery X7 years. Daily use of medication for migraines, anxiety and sleep. Under current care of neurology and endocrinology; no new growth of tumor, but migraines continue to be steady 3-4 times a month post surgery x 7 years. Interferes with everyday life; cannot do continuous physical activity for long periods of time. Miss work at least two times a day due to migraines. Medication is not guaranteed to always treat symptoms/side effects.” She elaborates no specific contentions regarding rating or coding and mentions no additionally contended conditions.

RATING COMPARISON:

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Service FPEB – Dated 20050823** | | | **VA ( 4 Mo. Pre Separation) – All Effective Date 20051208** | | | |
| **Condition** | **Code** | **Rating** | **Condition** | **Code** | **Rating** | **Exam** |
| Migraine Headaches | 8100 | 10% | Migraine Headaches, s/p Surgical Removal of Pituitary Microadenoma | 8300-8100 | 50% | 20050820 |
| Irregular Menses | Not Unfitting | |  |  |  |  |
| Chronic Low Back Pain | Not Unfitting | | Low Back Pain | 5237 | 0% | 20050820 |
| Polycystic Ovarian Syndrome | Not Unfitting | | Ovarian Cyst | 7699-7615 | 10% | 20050820 |
| ↓No Additional MEB/PEB Entries↓ | | | Cervical Strain | 5237 | 10% | 20050820 |
| Not Service Connected x 6 | | | 20050820 |
| **Combined: 10%** | | | **Combined: 60%** | | | |

ANALYSIS SUMMARY: The Board acknowledges the sentiment expressed in the CI’s application regarding the significant impact that her service-incurred condition has had on her current quality of life. 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 utilizes DVA evidence proximal to separation in arriving at its recommendations; and, DoDI 6040.44 defines a 12-month interval for special consideration to post-separation evidence. The Board’s authority as defined in DoDI 6044.40, however, resides in evaluating the fairness of DES fitness determinations and rating decisions for disability at the time of separation. Post-separation evidence therefore is probative only to the extent that it reasonably reflects the disability and fitness implications at the time of separation.

Migraine Headaches. The CI migraine headaches started in February of 2003 and increased in frequency and severity. Diagnostic evaluation discovered a small pituitary microadenoma in the fall of 2003 for which surgical removal was performed June 2004 (transphenoidal resection). The headache frequency and severity did not improve after surgery and the CI was restricted to sedentary duties. At the time of the narrative summary (NARSUM), 26 April 2005, six months before separation, the CI reported headaches two to three times per week with constant headache as well. Headaches were aggravated or caused by vigorous activity. The commander’s letter 28 March 2005 reported the CI missed one to five days of work per month, approximately three per month on average due to her headaches, and that the frequency was similar before and after her surgery. He states she was functioning adequately in a low stress in garrison setting but that he did not believe she would be able to function in a battlefield environment. At the time of the VA Compensation and Pension (C&P) examination, headache frequency was recorded as once every four days and lasting eight hours. When headaches are severe she could not get out of bed. The examiner recorded “when the attacks occur, she is able to go to work but requires medication.” The FPEB, 23 August 2005 recorded that the CI missed three days per month of work but was able to return to work after sleeping in quarters and taking prescribed medication. A 31 May 2006 clinic encounter, six months after separation, recorded that the headaches were controlled to less than one per week on Topomax (CI had run out of medication the prior month and had experienced an increased frequency of headaches). A September 2009 C&P examination, over three years after separation, recorded the CI missed one to four days of work per month due to her headaches. The FPEB adjudicated a 10% rating possibly with application of the USAPDA pain policy and or DoDI 1332.39. The VA, in rating decision 3 April 2006, assigned a 50% evaluation based on “very frequent, completely prostrating and prolonged attacks productive of severe economic inadaptability.” When rating headaches under the diagnostic code 8100 migraine headaches, VA guidance uses the clear English definition of prostrating. The standard dictionary definition of "prostration" is "utter physical exhaustion or helplessness," and does not indicate that seeking medical attention is required. After separation, the CI apparently maintained employment and reported a similar frequency of missed work days per month due to headaches. Although there were more than one severe headache per month the Board concluded the headaches were not productive of severe economic inadaptability to support a rating of 50%. However, Board members agreed the evidence of the record reflected a severity and frequency to support a rating of 30%. After due deliberation, considering all of the evidence and mindful of VASRD §4.3 (reasonable doubt), the Board recommends a separation rating of 30% for the migraine headache condition coded 8100.

Other PEB Conditions. Three other conditions were forwarded by the MEB as meeting retention standards and were adjudicated as not unfitting by the PEB: irregular menses, low back pain and polycystic ovarian syndrome. None of these conditions were profiled, 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 performance of MOS duty requirements. 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 were secreting pituitary microademona status post transphenoidal resection, sinusitis, right knee pain, left wrist pain, foot pain, weight loss and chronic pelvic pain. Several additional non-acute conditions or medical complaints were also documented. The pituitary microadenoma was diagnosed in the course of evaluation for headaches and there were no residuals due to surgical resection of the pituitary microadenoma. None of these conditions were clinically or occupationally 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. In the matter of the migraine headache condition, the Board unanimously recommends a separation rating of 30% coded 8100 IAW VASRD §4.124a. In the matter of irregular menses, low back pain and polycystic ovarian syndrome, secreting pituitary microademona status post transphenoidal resection, sinusitis, right knee pain, left wrist pain, foot pain, weight loss, chronic pelvic 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 and that the discharge with severance pay be recharacterized to reflect permanent disability retirement, effective as of the date of her prior medical separation:

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| --- | --- | --- |
| **UNFITTING CONDITION** | **VASRD CODE** | **RATING** |
| Migraine Headaches | 8100 | 30% |
| **COMBINED** | **30%** |

The following documentary evidence was considered:

Exhibit A. DD Form 294, dated 20110609 w/atchs

Exhibit B. Service Treatment Record

Exhibit C. Department of Veterans' Affairs Treatment Record

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