RECORD OF PROCEEDINGS

PHYSICAL DISABILITY BOARD OF REVIEW

NAME: BRANCH OF SERVICE: navy

CASE NUMBER: PD1100522 SEPARATION DATE: 20030702

BOARD DATE: 20120404

SUMMARY OF CASE: Data extracted from the available evidence of record reflects that this covered individual (CI) was an active duty MS2/E-5 (Mess Management) medically separated for deep vein thrombosis (DVT) of the left lower extremity (LLE). He was also found to have factor V leiden mutation (FVLM), necessitating lifelong anticoagulation therapy due to a high risk for thromboembolic disease. The CI was able to perform within his Rating, but the risk of bleeding due to anticoagulation was felt to interfere with the reasonable performance of his military duties. He was placed on limited duty (LIMDU) and underwent a Medical Evaluation Board (MEB). The DVT and FVLM conditions were forwarded to the Physical Evaluation Board (PEB) as medically unacceptable IAW SECNAVINST 1850.4E. One other condition (scoliosis, not considered disqualifying) was also listed on the MEB’s submission. The PEB found the DVT condition unfitting, and rated it 10% IAW the Veterans’ Administration Schedule for Rating Disabilities (VASRD). The FVLM condition was adjudicated as category II (contributing to the unfitting DVT condition). Scoliosis was found to be category III (not separately unfitting and not contributing to the unfitting condition). The CI made no appeals, and was medically separated with a 10% disability rating IAW applicable Navy and DoD regulations.

CI CONTENTION: In Item 3 of DD Form 294, the CI elaborates no specific contention regarding rating or coding, and mentions no additionally contended conditions.

RATING COMPARISON:

|  |  |
| --- | --- |
| **Navy PEB – dated 20020211** | **VA (3 mos. Post-Separation) – All Effective 20030703** |
| **Condition** | **Code** | **Rating** | **Condition** | **Code** | **Rating** | **Exam** |
| DVT, Left Lower Extremity | 7121 | 10% | Status Post DVT, with Factor V Leiden Mutation | 7121 | 0%\* | 20030429 |
| Factor V Leiden Mutation | Category II |
| Scoliosis | Category III | Back Pain, with Scoliosis | 5295 | 10% | 20030429 |
| ↓No Additional MEB/PEB Entries↓ | 0% x 3 / Not Service Connected (NSC) x 3 | 20030429 |
| **Combined: 10%** | **Combined: 10% initially\* (later increased to 20%)**  |

 \*VA Rating for DVT & FVLM was later increased to 10%, based on a Decision Review Officer (DRO) decision, dated 20040414

ANALYSIS SUMMARY:

Deep Vein Thrombosis (DVT) and Factor V Leiden Mutation (FVLM). In August 2002, the CI developed left calf pain and swelling. He was initially treated as a muscle strain, but his swelling and pain worsened. In September 2002, re-evaluation suggested DVT, which was confirmed with a duplex scan. The CI was begun on anticoagulant medication, and his symptoms improved. In November 2002, laboratory studies revealed a factor V leiden mutation (FVLM). Because the FVLM condition requires lifelong anticoagulation, an MEB was initiated. At the November 2002 MEB examination, 8 months prior to separation, the CI denied any calf pain. His left calf was 2.5 cm larger than the right, but Homan’s sign was negative. As noted above, the PEB found him unfit for military duty, and he was medically separated with 10% disability. The FVLM condition was adjudicated as category II (contributing to the unfitting DVT condition). At the April 2003 VA Compensation and Pension (C&P) evaluation, 3 months prior to separation, the CI had no complaints about his left leg. He was saddened that he would have to be on anticoagulation for life. He denied any bleeding complications due to his anticoagulation. On examination, the CI had normal posture and gait. There was no LLE swelling and the skin was normal. His DVT and FVLM was initially rated 0% by the VA, but this was later increased to 10% by a subsequent DRO decision (14 April 2004).

The Board directed its attention to its rating recommendation based on the evidence just described. The VASRD §4.104 clearly delineates the signs and symptoms required for each rating percentage under diagnostic code (DC) 7121. For a rating over 10%, there should be persistent edema, incompletely relieved by elevation. We know that he did not have persistent edema, because his LLE showed no swelling at the April 2003 C&P exam. Furthermore, there was no evidence of skin pigmentation changes, or ulceration. The Board carefully considered all of the evidentiary information available. After due deliberation, and mindful of VASRD §4.3 (reasonable doubt), the Board determined that there is no basis for a rating greater than 10%. The Board unanimously recommends no change to the PEB’s adjudication of the DVT condition. With regard to the FVLM condition, the Board agrees that it was indeed related to the unfitting DVT condition. The Board unanimously recommends no change to the PEB’s adjudication of the FVLM condition.

Other PEB Condition. Scoliosis was adjudicated by the PEB as category III (not separately unfitting, and not related to the unfitting condition). The service treatment record (STR) does show evidence of scoliosis and intermittent back pain. The CI was given a half inch heel lift, due to a leg length discrepancy. The scoliosis did not cause duty limitations, and was not implicated in the non-medical assessment (NMA). This condition was reviewed by the action officer and considered by the Board. There was no indication that this condition interfered with satisfactory performance of required military duties. All evidence considered, the Board unanimously recommends no change to the PEB’s adjudication of the scoliosis condition.

Remaining Conditions. Testicular nodule, borderline antisocial traits, fractured fingers, chest pain, and other conditions were also noted in the Disability Evaluation System (DES) file. None of these conditions were clinically significant during the MEB/PEB period, none were the basis for LIMDU, and none of them were implicated in the NMA. 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. Additionally, inguinal hernia and other conditions were noted in the VA rating decision proximal to separation but were not documented in the DES file. The Board does not have the authority 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. The Board did not surmise from the record or PEB ruling in this case that any prerogatives outside the VASRD were exercised. In the matter of the DVT and FVLM conditions and IAW VASRD §4.104, the Board unanimously recommends no change in the PEB’s adjudication. In the matter of the scoliosis condition, the Board unanimously recommends no change in the PEB’s adjudication. In the matter of the testicular nodule, borderline antisocial traits, fractured fingers, chest pain, or any other conditions eligible for 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 rating and separation determination, as below:

|  |  |  |
| --- | --- | --- |
| **UNFITTING CONDITION** | **VASRD CODE** | **RATING** |
| Deep Vein Thrombosis (DVT), Left Lower Extremity | 7121 | 10% |
| **COMBINED** | **10%** |

The following documentary evidence was considered:

Exhibit A. DD Form 294, dated 20110719, w/atchs

Exhibit B. Service Treatment Record

Exhibit C. Department of Veterans Affairs Treatment Record

 President

 Physical Disability Board of Review

MEMORANDUM FOR DIRECTOR, SECRETARY OF THE NAVY COUNCIL OF REVIEW

 BOARDS

Subj: PHYSICAL DISABILITY BOARD OF REVIEW (PDBR) RECOMMENDATIONS

Ref: (a) DoDI 6040.44

 (b) CORB ltr dtd 23 Apr 12

 In accordance with reference (a), I have reviewed the cases forwarded by reference (b), and, for the reasons provided in their forwarding memorandum, approve the recommendations of the PDBR the following individual’s records not be corrected to reflect a change in either characterization of separation or in the disability rating previously assigned by the Department of the Navy’s Physical Evaluation Board:

Assistant General Counsel

 (Manpower & Reserve Affairs)