RECORD OF PROCEEDINGS

PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXXXXXX BRANCH OF SERVICE: Army

CASE NUMBER: PD1100537 SEPARATION DATE: 20061106

BOARD DATE: 20120802

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SUMMARY OF CASE: Data extracted from the available evidence of record reflects that this covered individual (CI) was an active duty SPC/E-4 (25L/Cable Systems Installer), medically separated for chronic nausea and vomiting of unknown etiology, with normal nutritional state. He did not respond adequately to treatment and was unable to perform within his Military Occupational Specialty (MOS) or meet physical fitness standards. He was issued a permanent P3 profile and underwent a Medical Evaluation Board (MEB). Chronic nausea and vomiting of unknown etiology was forwarded to the Physical Evaluation Board (PEB) as medically unacceptable IAW AR 40-501. Gastro-esophageal reflux disease (GERD), as identified in the rating chart below, was forwarded on the MEB submission as medically acceptable conditions. The PEB adjudicated the chronic nausea and vomiting condition as unfitting, rated 0%, with probable application of DoDI 1332.39 and the Veterans Administration Schedule for Rating Disabilities (VASRD). The CI made no appeals and was medically separated with a 0% combined disability rating.

CI CONTENTION: “I believe the issue to be inaccurate because of new evidence that was found at a later date for gastraesophial issues pertaining to reason for discharge. Also evidence from DDEAMC.” 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.

SCOPE OF REVIEW: The Board wishes to clarify that the scope of its review as defined in DoDI 6040.44, Enclosure 3, paragraph 5.e. (2) is limited to those conditions which were determined by the PEB to be specifically unfitting for continued military service; or, when requested by the CI, those condition(s) “identified but not determined to be unfitting by the PEB.” The ratings for unfitting conditions will be reviewed in all cases. The remaining conditions rated by the Department of Veterans’ Affairs (DVA) at separation and/or listed on the DD Form 294 are not within the Board’s purview. Any contention not requested in this application, or otherwise outside the Board’s defined scope of review, remains eligible for future consideration by the Army Board for the Correction of Military Records (BCMR).

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RATING COMPARISON:

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Service PEB – Dated 20060919** | | | **VA (9 Mo. After Separation) – All Effective Date 20061107** | | | |
| **Condition** | **Code** | **Rating** | **Condition** | **Code** | **Rating** | **Exam** |
| Chronic N/V Of Unknown Etiology | 7399-7346 | 0% | GERD with Hiatal Hernia and, Gastric Disturburbance (claimed as chronic nausea) | 7346 | 10% | 20070116 |
| GERD | Not Unfitting | |
|  | | | Right Sided Sinusitis | 6513 | 10% | 20070116 |
| ↓No Additional MEB/PEB Entries↓ | | | Subdermal (sic) Hematoma w/Neurologic Symptoms | 8100 | 10% | 20070116 |
| 0% x 2/Not Service-Connected x 0 | | | 20070116 |
| **Combined: 0%** | | | **Combined: 30%** | | | |

Unchanged on review 20100728

ANALYSIS SUMMARY: The Disability Evaluation System (DES) is responsible for maintaining a fit and vital fighting force. 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 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 nor for conditions determined to be service-connected by the DVA but not determined to be unfitting by the PEB. However the DVA, operating under a different set of laws (Title 38, United States Code), 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’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.

Chronic Nausea and Vomiting of Unknown Etiology, with Normal Nutritional State. The CI first had symptoms with persistent nausea and vomiting (N/V) of two to three times a day in January 2006 after he contracted infectious mononucleosis. He underwent an extensive evaluation including a head CT scan and brain magnetic resonance imaging (MRI), upper GI X-ray with small bowel follow-through (while the first showed an irregularity consistent with Crohns disease, a second was normal), as well as a normal right upper quadrant ultrasound, CT of the abdomen and pelvis, esophageal gastroduodenoscopy (EGD) and gastric emptying. Laboratory findings including metabolic studies, thyroid functions, Hepatitis serology, stool cultures and multiple physical exams also were normal. A psychological evaluation did not reveal an etiology either. The consensus was that this most likely represented a functional complaint. The Board noted that, prior to the development of the unfitting condition of persistent nausea and vomiting , a “chapter 13” discharge for unsatisfactory performance for multiple failures of physical fitness testing had been started, but discontinued due to “overlapping quarantines (for conjunctivitis), quarters and recovery time” per the commander’s statement. During the evaluation, he was noted to have GERD which was controlled with medications and lifestyle modification. He was also found to have a small incidental hiatal hernia (HH) on upper gastrointestinal barium study without evidence of reflux. Direct visualization of the esophagus during EGD demonstrated a normal esophagus without evidence of irritation from reflux or recurrent vomiting. The MEB exam was accomplished 1 August 2006, 3 months prior to separation. While no etiology for the nausea and vomiting was found, he was unable to meet the requirements of his MOS or accomplish basic soldiering duties. It was noted that his nutritional state was normal as was his appetite. The Board further notes that the CI had gained 30 pounds between entry onto active duty and the onset of symptoms and another 15 pounds by the time of the MEB. The GERD was thought to be medically acceptable. The VA Compensation and Pension (C&P) exam was accomplished on 16 January 2007, a little over 2 months after separation. There was no change in the history, although it was noted that his weight had decreased from 230 to 220 pounds, and the examination was normal. The PEB awarded 0% disability for the chronic nausea and vomiting condition and determined the GERD condition to be not unfitting. The VA awarded 10% for symptomatic GERD with HH and did not rate the nausea and vomiting separately. The Board first considered the contention of the CI that the separation diagnosis was incorrect and the implication that it should have been Crohn’s disease. The Board notes that the diagnosis was made in 2011, 5 years after separation. It also noted the absence of lower intestinal symptoms and extensive normal evaluation of the upper gastro-intestinal system including the terminal ileum, normal physical exam of the abdomen, conjunctiva and oral cavity as well as endoscopy and imaging. It notes the normal laboratory findings, other than the evidence for mononucleosis, and the fact that the CI gained weight while symptomatic, which is not consistent with significant gastrointestinal disease including Crohn’s disease. The CI had no symptoms of lower gastrointestinal tract disease outside of a few instances of acute gastroenteritis. The Board determined that the evidence supporting a diagnosis of Crohn’s disease was insufficient to warrant a change in the diagnosis at separation. Further, even if it were, it would be considered less than moderate disease and, therefore, not merit a disability rating of 10%, providing no benefit to the CI. The Board then considered the 0% disability rating awarded by the PEB. It notes that nausea and vomiting are symptoms and not separately coded conditions in the VASRD. The PEB chose to rate analogously to 7346, hiatal hernia. The Board notes that the CI did not show evidence of malnutrition, but rather gained weight while symptomatic. There was no evidence of electrolye imbalance and both imaging and endoscopy were normal. There is no objective evidence of impairment other than lost duty time due to the reported symptoms. 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 nausea and vomiting condition.

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Contended PEB Conditions. The contended condition adjudicated as not unfitting by the PEB was GERD. The Board’s first charge with respect to these conditions is an assessment of the appropriateness of the PEB’s fitness adjudications. The Board’s threshold for countering 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. This condition was not profiled; implicated in the commander’s statement or judged to fail retention standards. It was reviewed by the action officer and considered by the Board. There was no indication from the record that it significantly interfered with satisfactory duty performance. After due deliberation in consideration of the preponderance of the evidence, the Board concluded that there was insufficient cause to recommend a change in the PEB fitness determination for the GERD condition and, therefore, no additional disability ratings can be recommended.

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 nausea and vomiting condition and IAW VASRD §4.114, the Board unanimously recommends no change in the PEB adjudication. In the matter of the contended GERD condition, the Board unanimously recommends no change from the PEB determination as not unfitting. There were no other conditions within the Board’s scope of review for consideration.

RECOMMENDATION: The Board, therefore, recommends that there be no recharacterization of the CI’s disability and separation determination, as follows:

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| --- | --- | --- |
| **UNFITTING CONDITION** | **VASRD CODE** | **RATING** |
| Chronic Nausea and Vomiting of Unknown Etiology with Normal Nutritional State | 7399-7346 | 0% |
| **COMBINED** | **0%** |

The following documentary evidence was considered:

Exhibit A. DD Form 294, dated 20110723, w/atchs

Exhibit B. Service Treatment Record

Exhibit C. Department of Veterans’ Affairs Treatment Record

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President

Physical Disability Board of Review

SFMR-RB

MEMORANDUM FOR Commander, US Army Physical Disability Agency

(TAPD-ZB / ), 2900 Crystal Drive, Suite 300, Arlington, VA 22202

SUBJECT: Department of Defense Physical Disability Board of Review Recommendation for XXXXXXXXXXXXXXXXXXXXX, AR20120013941 (PD201100537)

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 XXXXXXXXXXXXXXXXXXXXXXXXXXX

Deputy Assistant Secretary

(Army Review Boards)

CF:

( ) DoD PDBR

( ) DVA