RECORD OF PROCEEDINGS

PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXXXXXXXXXXXXXX BRANCH OF SERVICE: Army

CASE NUMBER: PD1100601 SEPARATION DATE: 20051226

BOARD DATE: 20120307

SUMMARY OF CASE: Data extracted from the available evidence of record reflects that this covered individual (CI) was an active duty SGT/E-5 (11B20 / Infantryman), medically separated for chronic anterior abdominal pain, status post (s/p) umbilical hernia repair and subsequent exploration. He developed an umbilical hernia that was surgically repaired while deployed in Iraq. He remained symptomatic following the surgery which prompted an exploration that revealed no remarkable findings. He was unable to fully perform within his Military Occupational Specialty (MOS), was issued a permanent P3 profile and referred to a Medical Evaluation Board (MEB). The MEB forwarded chronic abdominal pain to the Physical Evaluation Board (PEB) as medically unacceptable IAW AR 40-501. No other conditions appeared on the MEB’s submission. Other conditions included in the Disability Evaluation System (DES) packet will be discussed below. The PEB adjudicated the chronic anterior abdominal pain condition as unfitting, rated 10% with application of the USAPDA pain policy. The CI made no appeals, and was medically separated with a 10% disability rating.

CI CONTENTION: The CI states: “I was medically discharged with a 10% Rating for scaring and unbilical hernia. I pulled the hernia in Iraq [sic] I was an Infantry Spc with 3rd ID. I was a 240 gunner. After a long day of patroiling [sic] the streets of Bahgdad. In the 2nd week of us holding Bahgdad I was a member of Task force I-64, we were the spearhead force for 3rd I.D. I pulled the hernia very early on in the initial invation [sic] not continued to do my job until the entire Brigade team Redeployed, when everyone else went on leave after 3 days of being home. I went under the surgeons [sic] knife with my hernia. I passed promotion board while in Faluja. Made Sgt after my 2nd hernia repair and fought to get back to deployment readiness. I completed PIDL 5 days after my 2nd surgery. I had 3 surgeries in all and I had about 5 or 6 series of injections to deaden the nerve ending around my imbilical [sic] area [sic] I saw a civilian, while still on active duty to try and help with the issie [sic] I was put on nurentin [sic] or gebatril [sic] to help with the nerve problems. I lost my carrer [sic] doing my job as an Infantry soldier. And lost everything And have never gotten better [sic] this dosent [sic] feel like it should for me. I feel like I gave everything and its not supposed to be like this for me [sic] when I was separated I never found a carrer [sic] and am in dept [sic] after losing my income.” He elaborates no specific contentions regarding rating or coding and mentions no additionally contended conditions.

RATING COMPARISON:

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Service IPEB – Dated 20051115** | | | **VA (No Show for Exam ) – All Effective 20051227** | | | |
| **Condition** | **Code** | **Rating** | **Condition** | **Code** | **Rating** | **Exam** |
| Chronic Anterior Abdominal Pain S/P Umbilical Hernia Repair… | 5099-5003 | 10% | Residuals, Umbilical Hernia Repair | 7399-7339 | 0% | STR  (No Show) |
| ↓No Additional MEB/PEB Entries↓ | | | 0% x 1/Not Service Connected x 3 | | | No Show |
| **Combined: 10%** | | | **Combined: 0%\*** | | | |

\* Added 9411 at 30% effective 20071029 (combined 40%); Scar 7804 at 10% effective 20080708 (combined 40%)

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. It is a fact, however, that the Disability Evaluations System (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. This role and authority is granted by Congress to the Department of Veterans’ Affairs (DVA). 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 6040.44, 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.

Chronic Anterior Abdominal Pain, (S/P) Umbilical Hernia Repair and Subsequent Exploration Condition: Following surgical umbilical hernia repair the CI had intractable anterior abdominal pain not relieved by two additional surgeries, and aggressive non-surgical and medical therapy (nerve blocks, TENS and multiple medications). There was no identified etiology for the duty-limiting abdominal pain. Endoscopy indicated esophagitis and colonoscopy was negative. History indicated “(The CI’s) pain is primarily left of his umbilicus and is worse with movement and straining, lifting, sit-ups, straining to have a bowel movement and other similar activities.” The MEB history also indicated a complaint of “abdominal pain from hernia and scar tissue.” NARSUM examination, four months prior to separation revealed a well-healed surgical scar. The left lower abdomen had palpable scar tissue. Normal bowel sounds. His abdomen was soft, nontender and nondistended without mass, guarding, rebound, ascites or hepatosplenomegaly. The MEB exam also indicated a “1.5 cm tender (or thick?) nodule just to L of umbilicus.”

There was no VA exam proximate to separation (no-show) and the VA rated the service records at 0% absent exam information. Remote from separation, based on exam of July 2008, the VA rated the CI at 10% for painful abdominal scar as a residual of the hernia surgery.

There was no evidence in the record of residual or recurrent hernia, diastasis of recti muscles, significant abdominal wall abnormality, weakening of the abdominal wall or any indication for a supporting belt. Coding under 7339 (hernia, ventral, postoperative) would be at 0% for “wounds, postoperative, healed, no disability, belt not indicated,” although the abdominal pain may be considered indicative of a disability. The service record was unclear on supporting direct coding under 7804 for painful or unstable scar(s). The PEB coding analogous to 5003 (arthritis, degenerative) was unique to, and required by, the USAPDA pain policy and does not represent the body system or align with VASRD-only coding. IAW DoD guidance, the Board may not recommend any rating less than the PEB rating of 10%. Although strict VASRD coding under 7339 (hernia, ventral, postoperative) would be 0%, the umbilical hernia repair was documented to be painful, conceivably from the healed scar or other contiguous structure. Therefore, the Board recommends analogous rating at 10% coded 7339-7804 which best aligns with the CI’s symptoms (pain of abdominal wall area) and affected body system [7399 for §4.114—digestive system] IAW VASRD §4.20 (analogous ratings). After due deliberation in consideration of the totality of the evidence, the Board concluded that there is no VASRD basis for recommending a higher rating than the 10% conferred by the PEB in this case. The Board does recommend a code change to 7339-7804 to maintain compliance with the DoDI 6040.44 requirement for strict adherence to the VASRD.

Remaining Conditions. Other conditions identified in the DES file were astigmatism/loss of vision bilaterally; rhinitis/chronic post nasal drip; plantar fasciitis right foot; mild myofascial pain in back/chronic back pain; anxiety, stress, nightmares/PTSD; hearing loss left ear; crook in neck and right knee and protruding bone left knee. 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 was implicated in the commander’s statement. The commander’s statement did not mention or signify any mental issues that interfered with the CI’s work. Additionally, the CI was never profiled for any mental issues and his profile was S1. 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 the USAPDA pain policy for rating the abdominal pain condition was operant in this case and the condition was adjudicated independently of that policy by the Board. In the matter of abdominal pain condition, the Board unanimously recommends no change in the PEB rating of 10% due to pain. The Board, however, recommends changing the disability coding to 7339-7804 IAW VASRD §4.114 and §4.118. In the matter of the vision, rhinitis, right foot plantar fasciitis, back pain, PTSD, hearing loss, neck, and knee conditions, 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, effective as of the date of his prior medical separation.

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| --- | --- | --- |
| **UNFITTING CONDITION** | **VASRD CODE** | **RATING** |
| Anterior Abdominal Pain, Status Post Umbilical Hernia Repair | 7339-7804 | 10% |
| **COMBINED** | **10%** |

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 XXXXXXXXXXXXXXXXXXXXXXXXXXXX, AR20120004760 (PD201100601)

1. 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 to modify the individual’s disability description without modification of the combined rating or recharacterization of the individual’s separation. This decision is final.

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.

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 XXXXXXXXXXXXXXX

Deputy Assistant Secretary

(Army Review Boards)

CF:

( ) DoD PDBR

( ) DVA