RECORD OF PROCEEDINGS

PHYSICAL DISABILITY BOARD OF REVIEW

NAME: BRANCH OF SERVICE: Army

CASE NUMBER: PD1100632 SEPARATION DATE: 20030221

BOARD DATE: 20120216

SUMMARY OF CASE: Data extracted from the available evidence of record reflects that this covered individual (CI) was an active duty PFC/E-3 (67U, CH-47 Helicopter Repairer), medically separated for exertional heat illness*.* The CI first suffered a heat injury during his initial entry training (IET), which resulted in hospitalization. He sustained a second heat injury 11 months later associated with a severe sunburn incident, also resulting in hospitalization. An initial Medical Evaluation Board (MEB) recommended a 90-day trial of duty with progressive physical profiles. During attempts at slow heat acclimatization, however, the CI twice became symptomatic following minimal heat exposure. He was consequently unable to fully perform within his Military Occupational Specialty (MOS), and was issued a permanent profile restricting heat exposure and the use of protective chemical gear; thus rendering him non-deployable. A second MEB was convened, and forwarded exertional heat illness 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) file will be addressed below. The PEB adjudicated the exertional heat illness condition as unfitting, rated 0% and referencing the Army table of analogous codes; which are in turn rated under criteria from the Veterans Administration Schedule for Rating Disabilities (VASRD). The CI made no appeals, and was medically separated with a 0% disability rating.

CI CONTENTION: “Too [sic] this day, I have a very hard time in adjusting to extreme heat. I have had multiple instances of heat related problems since separation and my past employers have had a difficult time in allowing me to work in extreme temperatures. I have even been denied an employment opportunity working as a machinist for a truck axel plant due to the heat conditions inside of the plant.” He elaborates no specific contentions regarding rating or coding and mentions no additionally contended conditions.

RATING COMPARISON:

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| --- | --- | --- | --- | --- | --- | --- |
| **Service IPEB – Dated 20030108** | | | **VA – All Effective 20030222** | | | |
| **Condition** | **Code** | **Rating** | **Condition** | **Code** | **Rating** | **Exam** |
| Exertional Heat Illness | 7999-7900 | 0% | Exertional Heat Illness … | 8999-8911 | 0% | STR\* |
| No Additional MEB/PEB Entries | | | No Additional VA Entries | | | STR |
| **Combined: 0%** | | | **Combined: 0%** | | | |

\* Service Treatment Record; no VA examinations in evidence.

ANALYSIS SUMMARY: The Board acknowledges the sentiment expressed in the CI’s application regarding the significant impairment with which his service-aggravated condition continues to burden him. It is a fact, however, that 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. This role and authority is granted by Congress to the Department of Veterans’ Affairs (DVA). The DVA, operating under a different set of laws (Title 38, United States Code), is empowered to compensate 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 authority, as defined in DoDI 6044.40, 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.

Exertional Heat Illness Condition: At the time of the second MEB the CI reported continued symptoms of nausea and vomiting with heat exposure, even with activities as minimal as mowing the yard. There was no history of loss of consciousness or seizure activity. The physical exam showed no abnormalities. The resting pulse was recorded at 70 beats per minute. There is no entry in the service treatment record (STR) recording a pulse rate of 100 or higher (a rating criteria), even during emergency room visits for acute heat illness symptoms. The PEB coded the heat illness analogously to hyperthyroidism, and rated it at 0% based on the symptoms in evidence at separation. The VA determined that the heat illness condition was service-connected, coded it analogously to seizure disorder, and also rated the condition at 0% based on the CI’s concurrent symptoms and absence of residuals. The VASRD does not provide for a specific or entirely applicable code for heat-related illness when it is not associated with significant renal, metabolic or neurologic sequelae. The PEB’s analogous code is in common use for heat illness. The code requires at least intermittent tachycardia and tremor or the need for continuous medication to achieve the minimum compensable rating (10%). None of these requirements were met. The VA’s analogous code is less commonly use for heat illness. The code requires confirmed diagnosis of epilepsy with a history of seizures or the need for continuous medication to achieve the minimum compensable rating (10%). None of these requirements were met. No other analogous coding approach is consistent with the evidence at hand; and, although an extra-schedular rating of 10% could be entertained based on the actual degree of disability in this case, members agreed that it would be of no practical advantage to the CI and therefore not meriting this unconventional resolution. 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 condition of exertional heat intolerance.

Remaining Conditions. Other conditions identified in the DES file were mild bilateral hearing loss and a history of bladder neck abnormality. Neither of these conditions were clinically active during the MEB period; neither carried attached profiles; and, neither was implicated in the commander’s statement. These conditions were reviewed by the action officer and considered by the Board. It was determined that neither 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 thus has no reasonable basis for recommending any additional unfitting conditions for service 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 heat illness condition and IAW VASRD §4.119, the Board unanimously recommends no change in the PEB adjudication. The Board unanimously agrees that there were no other conditions eligible for Board consideration which could be recommended as additionally unfitting for rating at separation.

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

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| **UNFITTING CONDITION** | **VASRD CODE** | **RATING** |
| Exertional Heat Illness | 7999-7900 | 0% |
| **COMBINED** | **0%** |

The following documentary evidence was considered:

Exhibit A. DD Form 294, dated 20110721, 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)