RECORD OF PROCEEDINGS

PHYSICAL DISABILITY BOARD OF REVIEW

NAME: xxxxxxxxxxxxxx BRANCH OF SERVICE: army

CASE NUMBER: PD1100652 SEPARATION DATE: 20070213

BOARD DATE: 20120411

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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 soldier SGT/E-5 (33W, Military Intelligence Systems Maintainer/Integrator), medically separated for chronic low back pain (LBP) secondary to lumbar spondylosis with traumatic onset. The CI reported this episode of back pain began in May 2005, after he moved a copier. The CI did not respond adequately to treatment and was unable to perform within his Military Occupational Specialty (MOS). The CI was issued a permanent L3 profile and underwent a Medical Evaluation Board (MEB). The MEB forwarded “lumbar spondylosis” on the DA Form 199 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 “chronic LBP secondary to lumbar spondylosis with traumatic onset (lifting injury)” as unfitting, rated 10% with application of the Veterans Administration Schedule for Rating Disabilities (VASRD). The CI made no appeals, and was medically separated with a 10% disability rating.

CI CONTENTION: The CI elaborates no specific contentions regarding rating or coding and mentions no additionally contended conditions.

RATING COMPARISON:

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| --- | --- | --- | --- | --- | --- | --- |
| **Service PEB – Dated 20061108** | | | **VA (13 Mo. After Separation) – All Effective Date 20070214** | | | |
| **Condition** | **Code** | **Rating** | **Condition** | **Code** | **Rating** | **Exam** |
| Chronic Low Back Pain Secondary to Lumbar Spondylosis with Traumatic Onset | 5237 | 10% | Lumbar Spondylosis | 5243 | 10% | 20080125 |
| ↓No Additional MEB/PEB Entries↓ | | | Retro-Patellar Pain Syndrome, Left Knee | 5260 | 10% | 20080125 |
| Tinnitus | 6260 | 10% | 20080201 |
| Scar, Post Herniorraphy | 7804 | 10% | 20080125 |
| 0% x 2/Not Service-Connected x 3 | | | |
| **Combined: 10%** | | | **Combined: 30%** | | | |

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ANALYSIS SUMMARY:

Low Back Pain. There were two goniometric range-of-motion (ROM) evaluations in evidence, with documentation of additional ratable criteria, which the Board weighed in arriving at its rating recommendation.

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| Goniometric ROM - Thoracolumbar | MEB ~ 4 Mo. Pre-Sep  (20060926) | VA C&P ~ 12 Mo. After-Sep  (20080125) |
| Flex (0-90) | 40⁰\* (42°, 39°, 43°) | 80⁰, pain @ 75⁰ |
| Ext (0-30) | 20⁰\* (20°, 21°, 19°) | 30⁰ |
| R Lat Flex (0-30) | 25⁰\*\* (24°, 28°, 26°) | 30⁰, pain @ 20⁰ |
| L Lat Flex 0-30) | 20⁰\*\* (22°, 20°, 19°) | 30⁰, pain @ 20⁰ |
| R Rotation (0-30) | 30⁰\*\* (51°, 50°, 55°) | 30⁰ |
| L Rotation (0-30) | 30⁰\*\* (48°, 47°, 44°) | 30⁰ |
| COMBINED (240) | 165⁰ | 225⁰ |
| 20060809 Lumbosacral (L/S) spine x-ray loss of lumbar lordosis | \*Limited by pain;  \*\* Limited by mechanical origin;  All Waddell’s negative; No motor, sensory, or reflex exam documented, but normal neurologic exam noted on MEB DA 2808; tenderness to palpation at L4-5 level noted on MEB DA 2808 | Flexion, left and right lateral flexion had pain with movement and pain increased after repetitive use but there was no additional loss of motion with repetitive use; Motor, sensory, and reflexes normal |
| §4.71a Rating | 20% (Flex >30 but ≤60) | 10% (Flex >60 but ≤85, combined >120 but ≤235) |

The CI’s back condition began in 1988 when he injured his back while jumping and was diagnosed with mechanical LBP. The CI was evaluated by orthopedics in December 1988 and noted to have mild tenderness and diagnosed with mild postural mechanical LBP. In 2002, the CI had one episode of costochondritis and back pain and was treated with nonsteroidal anti-inflammatory drugs (NSAIDS) for recurring LBP. In August 2005 the lumbosacral spine xray revealed a normal lumbosacral spine except for loss of lumbar lordosis. In September 2005 the CI was evaluated for a 2 month complaint of posterior left thigh pain, a limping gait on the left and positive straight leg raise (SLR); however, the motor and sensory examinations were normal. The CI was seen for radicular pain radiating from the low back into the left leg in November 2005; however, the motor and sensory exams were again normal. The CI was referred to physical therapy (PT) and started on a nonsteroidal anti-inflammatory medication-mobic. A CT scan of the lumbosacral spine done in May 2006 demonstrated mild lumbar spondylosis of the lower lumbar spine. The CI was seen by physical medicine in July 2006 with complaints of LBP and stiffness along with burning, shock like pain occasionally radiating into the left lower extremity (LLE) and episodes of the LLE “falling asleep” with prolonged sitting. On physical examination, the SLR was negative, sacroiliac testing was normal and both motor and sensory testing was negative. The CI was granted a permanent L3 profile in August 2006 for mechanical LBP with restrictions of no moving with a fighting load at least two miles; no lifting or carrying greater than thirty pounds; no two mile run; no ruck marching; no sit-ups; no APFT sit-ups, swimming and no unlimited running, walking, biking, swimming, upper and lower body weight training. The commander’s statement indicated functional limitations of no running, no sit-ups, and no ruck marching and no lifting over thirty pounds which caused a reduced ability to perform his MOS. The MEB examination four months prior to separation noted constant LBP with sharp shock-like pain that occasionally radiated down to the left thigh rated three out of ten at baseline and increased to five to six out of ten from lifting, bending, prolonged sitting and standing greater than 60 minutes, running and ruck marching. Pain was alleviated by rest and lying in a recumbent position. The CI had functional limitations with lifting and carrying objects over 35 pounds; climbing in and out of vehicles; and he could not stand nor walk for a prolonged period of time. These functional limitations directly impacted the CI’s performance of his MOS duties. The VA Compensation & Pension (C&P) examination completed 12 months after separation documented pain with flexion and left and right lateral flexion and after repetitive use; however there was no additional decrease in ROM after repetitive motion and motor, reflex, and sensory examinations were normal. Gait and posture were also normal but bilateral muscle spasm was noted.

Board precedent is that a functional impairment tied to fitness is required to support a recommendation for addition of a peripheral nerve rating at separation. The pain component of a radiculopathy is subsumed under the general spine rating as specified in §4.71a. While a positive straight leg raise test was documentd on multiple occaisions in the service treatment record (STR), neither the MEB nor the VA C&P examinations documented a straight leg raise test. Additionally, there was no evidence of either a motor or a sensory component or any evidence of a functional impairment related to this condition. Therefore, the Board has no reasonable basis to support a recommendation for additional rating of peripheral nerve impairment.

The PEB coded the chronic LBP secondary to lumbar spondylosis w/traumatic onset as 5237 lumbosacral or cervical strain rated 10% and the VA coded the condition as 5243 intervertebral disc syndrome and rated 10%. The PEB and the VA chose different coding options, but either coding uses the “general rating formula for diseases and injuries of the spine.” This rating criterion considers that CI’s pain symptoms “with or without symptoms such as pain (whether or not it radiates), stiffness or aching in the area of the spine affected by residuals of injury or disease.” Both the MEB and the VA C&P examinations are complete and contain active ROM measurements made with a goniometer. The MEB examination was 4 months prior to separation and therefore has the higher probative value as the VA C&P examination was 12 months after separation. At the time of the MEB examination, the CI’s flexion was limited by pain to 40 degrees. The MEB examination met the 20% criteria for “forward flexion of the thoracolumbar spine greater than 30 degrees but not greater than 60 degrees.” The Board considered rating under the code 5243 intervertebral disc syndrome; however, the CI had no documented episodes of incapacitation defined as 5243 note (1) “a period of acute signs and symptoms due to intervertebral disc syndrome that requires bed rest prescribed by a physician and treatment by a physician.” After due deliberation, considering all of the evidence and mindful of VASRD §4.3, the Board recommends a separation rating of 20% for the chronic LBP secondary to lumbar spondylosis with traumatic onset condition without the addition of a separate rating for raidculopathy.

Remaining Conditions. Other conditions identified in the DES file were chest pain, bilateral hernia repair, left knee pain, left foot pain, left hand pain, right shoulder pain, and shortness of breath. None of these conditions were significantly clinically or occupationally active during the MEB period, none carried attached permanent 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. Additionally tinnitus; scar, post-herniorraphy; and benign prostatic hypertrophy; were noted in the VA proximal to separation, but were not documented in the DES file. The Board does not have the authority under DoDI 6040.44 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. In the matter of the chronic LBP secondary to lumbar spondylosis with traumatic onset condition, the Board unanimously recommends a rating of 20% coded 5237 IAW VASRD §4.71a. In the matter of the peripheral neuropathy; chest pain; bilateral hernia repair; left knee pain; left foot pain; left hand pain; right shoulder pain; and shortness of breath conditions, 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** |
| Chronic Low Back Pain Secondary To Lumbar Spondylosis with Traumatic Onset | 5237 | 20% |
| **COMBINED** | **20%** |

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The following documentary evidence was considered:

Exhibit A. DD Form 294, dated 20110727, 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 XXXXXXXXXXX, AR20120007687 (PD201100652)

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 rating to 20% without 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 XXXXXXXXXXX

Deputy Assistant Secretary

(Army Review Boards)

CF:

( ) DoD PDBR

( ) DVA