RECORD OF PROCEEDINGS

PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXXXXX BRANCH OF SERVICE: air force

CASE NUMBER: PD1100668. SEPARATION DATE: 20041008

BOARD DATE: 20120314

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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 member SSgt/E-5, (2W071, Munitions System Craftsman), medically separated for chronic left groin pain. The CI’s pain began in July 2002 after pushing a heavy trailer. A month later he was diagnosed with a left inguinal hernia which was surgically repaired yet his pain continued. The CI did not respond adequately to further conservative treatment and was unable to perform within his Air Force Specialty (AFS) or meet physical fitness standards. The CI was placed on light duty and underwent a Medical Evaluation Board (MEB). The MEB forwarded “chronic left groin pain” on AF Form 356 to the Physical Evaluation Board (PEB) as medically unacceptable IAW AFI 48-123. 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 left groin pain 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: “Upon the discharge, the VA rated me at 30% service connected for the conditions I was discharged. This should have granted me a medical retirement instead of a Medical Discharge. Since that date, my service connected conditions have increased in severity and I am now rated at 60% service connected.” He elaborates no specific contentions regarding rating or coding and mentions no additionally contended conditions.

RATING COMPARISON:

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Service IPEB – Dated 20040628** | | | **VA (14 Mo. After Separation) – All Effective Date 20041009** | | | |
| **Condition** | **Code** | **Rating** | **Condition** | **Code** | **Rating** | **Exam** |
| Chronic Left Groin Pain | 8730 | 10% | Left Inguinal Hernia post repair | 7338 | 10% | 20051207 |
| ↓No Additional MEB/PEB Entries↓ | | | Gout | 5017 | 20% | 20051207 |
| 0% x 2/Not Service Connected x 1 | | | 20051207 |
| **Combined: 10%** | | | **Combined: 30%\*** | | | |

**\***From 20100514; Migraine Headaches to 30%; Hypertension to 10%; Scar Residual Associated with Post Repair Left Inguinal Hernia 10%; From 20100728 Kidney Stones associated with Gout to 10% **Combined 60%.**

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 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 further acknowledges the CI’s contention that suggests service ratings should have been conferred for other conditions documented at the time of separation. The Board wishes to clarify that it is subject to the same laws for service disability entitlements as those under which the DES operates. 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. 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 reevaluate said conditions for the purpose of adjusting the Veteran’s disability rating should the degree of impairment vary over time.

Left Groin Condition. The CI underwent a left inguinal herniorraphy with a resection of the left ilio-inguinal nerve in July 2000 and suffered residual post operative pain. Two months later he was surgically explored for possible recurrent hernia or nerve entrapment. The ilio-inguinal nerve was noted within scar/reactive tissue and around the mesh site, was resected and the mesh site was reinforced with no evidence of recurrent hernia. He continued to complain of left groin pain and was aggressively treated by pain management with steroid injections and medication for neurogenic persistent pain (Neurontin). In April 2004 he was placed on a profile for no fitness test, strenuous activity, prolong standing, lifting greater than 20 pounds and was classified as not worldwide qualified. His commander’s statement corroborated these limitations and further recommended the CI be cross-trained into another career field. The MEB examination, six months prior to separation, historically documented chronic, constant and intense left groin pain, worse with activities and standing which affected the CI’s ability to work in his non-exertional position. The examiner demonstrated the groin pain was not worse with palpation. The VA Compensation & Pension (C&P) examination, eight months after separation, historically documented normal sexual and genitourinary functioning and sensory symptoms in the left groin, proximal left scrotal area and through the left medial thigh area with occasional abdominal muscle spasms and hypersensitivity around the area of the surgical scar. Pertinent exam findings included; allodynia and hyperesthesia of the 10cm left groin scar extending to the “left scrotum and medial aspect of the left thigh to the distal one-third of the thigh over the distribution of the medial femoral cutaneous nerve,” no recurrent hernia, inguinal canal tenderness, however less tender than the skin surrounding the surgical scar. The examiner opined “status post left inguinal hernia with injury to the ilioinguinal nerve and medial femoral cutaneous nerve.”

The Board directs its attention to its rating recommendations based on the evidence just described. The PEB coded the chronic left groin pain condition 8730 (Neuralgia), severe to complete, as the basis for the 10% rating. The VA coded the left inguinal hernia post repair as 7338 (hernia, inguinal) rated as 10%. The Board agreed that both the narrative summary (NARSUM) and VA C&P exam demonstrated no recurrence of a hernia and the evidence supports a neurologic etiology for this condition since pain is the overriding pathology. The Board therefore deliberated on ratings defined within VASRD §4.124 which stipulates that neuralgia characterized usually by a dull and intermittent pain, of typical distribution so as to identify the nerve, is to be rated on the same scale, with a maximum equal to moderate incomplete paralysis and within VASRD §4.123 which stipulates that neuritis, cranial or peripheral, characterized by loss of reflexes, muscle atrophy, sensory disturbances, and constant pain, at times excruciating, is to be rated on the scale provided for injury of the nerve involved, with a maximum equal to severe, incomplete, paralysis. The Board agreed, despite applying the neuralgia code, the PEB rated the condition at the maximum neuritis rating for the ilio-inguinal nerve. The Board looked for evidence to support a higher rating but did not find any evidence of motor impairment and noted also the medial femoral cutaneous nerve maximum neuritis rating was also 10%. The Board determined that the Ilio-inguinal nerve peripheral nerve closely reflected the anatomical localization and symptomatology of the CI’s condition. All evidence considered, there is not reasonable doubt in the CI’s favor supporting a change from the PEB’s rating decision for the chronic left groin pain condition.

Remaining Conditions. No other conditions were noted in the NARSUM, identified by the CI on the MEB physical or found elsewhere in the DES file, gout and several other non-acute conditions were noted in the VA rating decision (VARD) 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 left groin pain condition and IAW VASRD §4.124, the Board unanimously recommends no change in the PEB adjudication at separation or permanently. In the matter of the gout condition 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, therefore, recommends that there be no recharacterization of the CI’s disability and separation determination, as follows:

|  |  |  |
| --- | --- | --- |
| **UNFITTING CONDITION** | **VASRD CODE** | **RATING** |
| Chronic Left Groin Pain | 8730 | 10% |
| **COMBINED** | **10%** |

The following documentary evidence was considered:

Exhibit A. DD Form 294, dated 20110728, w/atchs

Exhibit B. Service Treatment Record

Exhibit C. Department of Veterans Affairs Treatment Record

President

Physical Disability Board of Review

SAF/MRB

1500 West Perimeter Road, Suite 3700

Joint Base Andrews MD 20762

Dear XXXXXXXXXX

Reference your application submitted under the provisions of DoDI 6040.44 (Title 10 U.S.C. §  1554a), PDBR Case Number PD-2011-00668

After careful consideration of your application and treatment records, the Physical Disability Board of Review determined that the rating assigned at the time of final disposition of your disability evaluation system processing was appropriate. Accordingly, the Board recommended no re-characterization or modification of your separation with severance pay.

I have carefully reviewed the evidence of record and the recommendation of the Board. I concur with that finding and their conclusion that re-characterization of your separation is not warranted. Accordingly, I accept their recommendation that your application be denied.

Sincerely,

XXXXXXXXXXXXXX

Director

Air Force Review Boards Agency

Attachment:

Record of Proceedings