RECORD OF PROCEEDINGS

PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXXXXXXXXXXX BRANCH OF SERVICE: Army

CASE NUMBER: PD1100674 SEPARATION DATE: 20020626

BOARD DATE: 20120613

SUMMARY OF CASE: Data extracted from the available evidence of record reflects that this covered individual (CI) was an SSG/E-6 (91W/Health Care Specialist), medically separated for multiple keloid scarring preventing wearing of backpack and combat boots. The CI’s keloids began on the left shoulder in 1987 without notable trauma aside from wearing the rucksack. She developed severe painful keloids on her abdomen and both ankles that along with her painful left shoulder keloid were resistant to aggressive therapy including, repeat surgical excisions steroid injections and radiation. The CI’s multiple keloid scarring condition did not improve adequately with treatment to meet the physical requirements of her Military Occupational Specialty (MOS), permit wear of required uniform items, or satisfy physical fitness standards. She was issued a permanent P3 U3 L3 profile and referred for a Medical Evaluation Board (MEB). The MEB forwarded no other conditions for the Physical Evaluation Board (PEB) adjudication. The PEB adjudicated the multiple keloid scarring condition as unfitting, rated 10%, with application of the Veteran’s Affairs Schedule for Rating Disabilities (VASRD), and possibly the US Army Physical Disability Agency (USAPDA) pain policy. The CI appealed for a Formal PEB (FPEB) and the PEB reviewed a medical addendum to the MEB and upheld the original PEB determination at 10% for painful scars, which was added to the case file for the scheduled formal PEB hearing. The CI withdrew her appeal and accepted the PEB determination, and was medically separated with a 10% disability rating.

CI CONTENTION: “Review requested for accuracy and fairness.”

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 condition multiple keloid scarring as requested for consideration meets the criteria prescribed in DoDI 6040.44 for Board purview; and, is addressed below. Any conditions or contention not requested in this application, or otherwise outside the Board’s defined scope of review, remain eligible for future consideration by the Army Board for the Correction of Military Records (BCMR).

RATING COMPARISON:

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Service PEB – Dated 20020306** | | | **VA (5 Mos. Post-Separation) – All Effective Date 20020627** | | | |
| **Condition** | **Code** | **Rating** | **Condition** | **Code** | **Rating** | **Exam** |
| Multiple keloid scarring preventing wearing of backpack and combat boots | 7804 | 10% | Keloid formation on the abdomen / umbilicus / suprapubic area | 7802\* | 10%\* | 20021114 |
| Keloid formation left shoulder | 7802\* | 10%\* | 20021114 |
| Keloid formation on right buttock, left wrist, and right forearm | 7802 | 0% | 20021114 |
| Keloid formation, Right Ankle | 7805-7804 | 10%\* | 20021114  20050505\* |
| Keloid formation, Left Ankle | 7805-7804 | 10%\* | 20021114  20050505\* |
| ↓No Additional MEB/PEB Entries↓ | | | Bilateral tinnitus | 6260 | 10% | 20021114 |
| Not Service-Connected x 5 | | | |
| **Combined: 10%** | | | **Combined: 40%\*** | | | |

\* VA increased Abdomen area to 20% (7802-7801) and left shoulder to 20% (7802-7801) effective 20050505 (combined 60%). Original VA rating for both ankles was included under combined 7802 at 0%; appeal included exam of 20050505 and rated each ankle separately at 10% as above.

ANALYSIS SUMMARY: The 2001 Veterans’ Administration Schedule for Rating Disabilities (VASRD) coding and rating standards for the skin, which were in effect at the time of separation, were changed on August 30, 2002, and then to the current §4.118 rating standards on October 23, 2008. The 2001 standards will be applied in this case IAW the DoDI 6040.44 requirement for rating IAW the VASRD in effect at the time of separation. The later Department of Veterans’ Affairs (DVA) ratings appear to be based on the 2003 VASRD criteria. There was no indication from the record that the CI had ever been rated by the DVA under the newest skin criteria effective since late 2008. The current VASRD criteria for rating various numbers of separated multiple painful or unstable scars, in addition to any rating based on scar area or disfigurement, are not applicable in this case.

Keloid Condition. The narrative summary (NARSUM) and medical addendum noted severe recurrent keloid scarring with extensive therapy and continued painful keloids in the area of the left shoulder, abdomen (prior C-section), and each ankle. The MEB physical exam noted pain, itching (pruritus) and irritation at each location; with difficulty and pain with sit-ups, lying on her side, wearing boots, standing greater than 5 minutes, running or flexing her feet, wear of LBE or doing push-ups. The MEB physical exam noted the painful scars with the left shoulder measured 3x3 cm (9 cm2), the two abdominal scars measuring 16x1.5 cm and 1.5x1 inch (84 cm2), and bilateral ankle areas ranging 5x4 cm. Right buttock circumference 2.5 cm and left wrist area 2.5x0.5 cm keloids were of the “same formation.” Areas of waist band and shoulder harness, ankles and abdominal areas as interfering with function due to pain.

At the VA Compensation and Pension (C&P) exam, dated 5 months after separation, the CI reported painful keloids of the left shoulder, abdominal wall, bilateral ankles, and left wrist. The examiner measured the left shoulder keloid at 12x6 cm (72 cm2). The exam did not specify absence or presence of tenderness on exam. The VA initially rated this exam as 7802 at 10% for the left shoulder and as 7802 at 10% for the abdomen/umbilicus/suprapubic area, and 7802 at 0% for both ankles, right buttock, left wrist, and right forearm considered together as falling below 144 square inches.

On appeal, the VA considered a Compensation and Pension (C&P) exam, performed 3 years after separation, which identified bilateral ankle keloid tenderness and decreased ankle ROM due to the keloids. The wrist keloid was not noted as restricting motion or specified as tender. The left shoulder keloid was noted as “far and away the most disfiguring,” having progressed, and was very hard, raised over 1 cm and of a very fixed appearance. The three abdominal keloids were 33x2.5 cm, 6.5x4 cm and 2.5 cm circular in dimension (116 cm2). The VA rated the CI’s ankle keloid conditions at 10% each retroactive to the date of separation (7805-7804 for restricted motion and tenderness), and increased the left shoulder and abdominal area keloids each from 10% to 20% effective on 5 May 2005, changing the coding to 7802-7801 indicative of deep scars (equivalent to 3rd degree burns) versus superficial scars (equivalent to 2nd degree burns).

The Board directs attention to its rating recommendation based on the above evidence. The PEB bundled all keloids under a single 10% rating coded 7804 for painful scars as reiterated on the PEB review of additional medical information, indicating that this was the maximum rating. However, the VASRD notes under §4.118, schedule of ratings—skin, indicate that ratings for widely separated areas, as on two or more extremities or on anterior and posterior surfaces of extremities or trunk, will be separately rated and combined for codes 7801 and 7802. The initial VARD also indicated under the rating for the left shoulder keloid that “other keloid formations are evaluated separately, since they are widely distributed about the body.” The later 7801 (equivalent to 3rd degree burns/deep scars) coding and increased ratings for the shoulder and abdominal scars was remote from separation.

The Board first considered which of the painful keloids, having been de-coupled from the combined PEB adjudication remained independently unfitting/ratable.

All members agreed that the buttocks, left wrist, and right forearm keloids were not specifically noted as tender or producing functional impairment to the level of being independently ratable and the Board concluded therefore that these condition could not be recommended for additional disability rating (not unfitting).

All members agreed that the left shoulder, right ankle, left ankle, and abdominal keloids, would have rendered the CI incapable of continued service within her MOS; and, accordingly merit a separate rating. Although the keloids were noted to be “severe” and required radiation treatment, there was scant evidence proximate to separation that the keloids were considered deep or analogous to 3rd degree burns (for 7801 analogous coding). The CI’s keloid scars, proximate to separation were analogous to 2nd degree burn scars (for 7802 analogous coding). The rating criteria for 7802 is based on area or areas approximating one square foot to achieve a 10% rating level and specifies that “ratings for widely separated areas, as on two or more extremities or on anterior and posterior surfaces of extremities or trunk, will be separately rated and combined.” The Board considered that the keloids on the ankles, abdominal area and left shoulder were analogous to 2nd degree burn or superficial scars, each interfered with function, and each was tender.

After due deliberation, considering all of the evidence and mindful of VASRD §4.3 (reasonable doubt), the Board recommends a disability rating of 10% for the left shoulder, 10% for the right ankle, 10% for the left ankle and 10% for the abdominal area keloid conditions each coded 7802-7804; and that the buttocks, left wrist, and right forearm keloids were not unfitting.

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 her keloid condition was possibly operant in this case and the condition was adjudicated independently of that policy by the Board. In the matter of the multiple keloids condition, the Board unanimously recommends that it be rated for multiple separate unfitting painful keloid conditions as follows: left shoulder coded 7802-7804 and rated 10%; right ankle, coded 7802-7804 and rated 10%; left ankle, coded 7802-7804 and rated 10%; and abdominal area coded 7802-7804 and rated 10% all IAW VASRD §4.118. Additionally the Board recommends that the buttocks, left wrist, and right forearm keloids are not unfitting. There were no other conditions within the Board’s scope of review for consideration.

RECOMMENDATION: The Board recommends that the CI’s prior determination be modified as follows; and, that the discharge with severance pay be recharacterized to reflect permanent disability retirement, effective as of the date of her prior medical separation:

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| --- | --- | --- | --- |
| **UNFITTING CONDITION** | | **VASRD CODE** | **RATING** |
| Keloid formation on the abdomen / umbilicus / suprapubic area | | 7802-7804 | 10% |
| Keloid formation left shoulder | | 7802-7804 | 10% |
| Keloid formation on right buttock, left wrist, and right forearm | | Not unfitting | |
| Keloid formation, Right Ankle | | 7802-7804 | 10% |
| Keloid formation, Left Ankle | | 7802-7804 | 10% |
| **COMBINED (w/ BLF)** | | **40%** |

The following documentary evidence was considered:

Exhibit A. DD Form 294, dated 20110819, 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 XXXXXXXXXXXXXX, AR20120011973 (PD201100674)

1. Under the authority of Title 10, United States Code, section 1554(a), I approve the enclosed recommendation of the Department of Defense Physical Disability Board of Review (DoD PDBR) pertaining to the individual named in the subject line above to recharacterize the individual’s separation as a permanent disability retirement with the combined disability rating of 40% effective the date of the individual’s original medical separation for disability with severance pay.

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:

a. Providing a correction to the individual’s separation document showing that the individual was separated by reason of permanent disability retirement effective the date of the original medical separation for disability with severance pay.

b. Providing orders showing that the individual was retired with permanent disability effective the date of the original medical separation for disability with severance pay.

c. Adjusting pay and allowances accordingly. Pay and allowance adjustment will account for recoupment of severance pay, and payment of permanent retired pay at 40% effective the date of the original medical separation for disability with severance pay.

d. Affording the individual the opportunity to elect Survivor Benefit Plan (SBP) and medical TRICARE retiree options.

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 XXXXXXXXXXXXXXXXXX

Deputy Assistant Secretary

(Army Review Boards)

CF:

( ) DoD PDBR

( ) DVA