RECORD OF PROCEEDINGS

PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXXXXXX BRANCH OF SERVICE: Army

CASE NUMBER: PD1100701 SEPARATION DATE: 20020816

BOARD DATE: 20120612

SUMMARY OF CASE: Data extracted from the available evidence of record reflects that this covered individual (CI) was an active duty SPC/E-4 (54B/Chemical Operations Specialist), medically separated coccydynia. He did not respond adequately to treatment and was unable to perform within his Military Occupational Specialty (MOS) or meet physical fitness standards. He was issued a permanent L3 profile and underwent a Medical Evaluation Board (MEB). Coccydynia was forwarded to the Physical Evaluation Board (PEB) as medically unacceptable IAW AR 40-501. The MEB forwarded no other conditions for PEB adjudication. The PEB adjudicated the coccydynia condition as unfitting, rated 0% with application of the US Army Physical Disability Agency (USAPDA) pain policy. The CI made no appeals, and was medically separated with a 0% combined disability rating.

CI CONTENTION: “I was Rated 0% for a disabilty that has affected my life the 9 years. I was rated disable by the Department of Veterans Affairs for the same injury and I feel my injury was "limited" to coccydnia and not the "pain or injury" to my lower back.” He additionally lists all of his VA conditions and ratings as per the rating chart below.

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 remaining conditions rated by the Department of Veterans’ Affairs (DVA) at separation and listed on the DA Form 294 are not within the Board’s purview. 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 20020606** | | | **VA (~1 Mo. After Separation) – All Effective Date 20020716** | | | |
| **Condition** | **Code** | **Rating** | **Condition** | **Code** | **Rating** | **Exam** |
| Coccydynia | 5099-5003 | 0% | Chronic Coccydynia (Claimed as Fractured Coccyx, Chronic Low Back Pain, Radiculopathy and Numbness and Tingling of Toes) | 5299-5298 | 10% | 20020719 |
| ↓No Additional MEB/PEB Entries↓ | | | Limited Motion, Lumbar Spine |  | 20%\* | VATR |
| 0% x 2/Not Service-Connected x 1 | | | 20020719 |
| **Combined: 0%** | | | **Combined: 10%** | | | |

\*Lumbar spine rating granted by VA Rating Decision 20050422 effective 20020816 based on VA treatment record evidence after the VA examination of 20020719.

ANALYSIS SUMMARY: The Disability Evaluation System (DES) is responsible for maintaining a fit and vital fighting force. While the DES considers all of the service member 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. 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 nor for conditions determined to be service-connected by the DVA but not determined to be unfitting by the PEB. 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 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 role is confined to the review of medical records and all evidence at hand to assess the fairness of PEB rating determinations, compared to VASRD standards in effect at the time of separation, based on severity at the time of separation.

Coccydynia Condition. The CI developed chronic coccydynia, pain of the coccyx (tail bone) following a slip and fall on the ice in December 2000. X-rays were thought to show a possible fracture of the coccyx but were otherwise normal of the lumbosacral spine. Evaluation by orthopedic surgery performed on 15 October 2001 noted mild tenderness of the coccyx and sacrum without palpable defect. X-ray showed a large terminal coccyx but no fracture. Bone scan was negative for abnormal uptake that would suggest a fracture. Although there was occasional report of low back pain, service treatment records (STR) clearly reflect coccyx pain as the activity limiting symptom and the focus of clinical attention. Evaluation in the clinic on 13 November 2001 was noted for absence of lower extremity pain. Persisting coccyx pain with running, sit-ups, heavy lifting, wearing heavy equipment, prolonged sitting and riding in rough terrain interfered with performance of vigorous military duties and MEB was initiated. At orthopedic examination on 4 February 2002, the CI reported mild coccyx pain, gait and sitting posture were normal, and there were no palpable abnormalities of the coccyx. There were no disturbances of bowel or bladder function. MEB NARSUM dated 22 April 2002, described persistent coccyx pain since the fall in December 2002. There was no mention of lumbar back pain and the examiner noted that there were no radicular symptoms. Treatment with non-narcotic analgesics provided 75% relief of pain and the pain assessment was minimal and constant. The PEB rated the coccydynia with minimal constant pain 0% in accordance with the USAPDA pain policy (coded 5099-5003). The VA Compensation and Pension (C&P) examination was on 19 July 2002, a month prior to separation. The CI reported problems with radiculopathy symptoms not documented in the STR and the CI declined electrodiagnostic evaluation to evaluate for presence of radiculopathy. Posture and gait were normal. There was diffuse tenderness of the lower back. X-rays were normal. The VA rated the coccydynia condition 10% analogously (§ 4.20) to partial or complete removal of the coccyx. This is the maximum rating provided under that code. The Board directs attention to its rating recommendation based on the above evidence. Board members agreed that coccyx pain was clearly documented as the impairment interfering with performance of duties and that it is most appropriately rated 10% analogously (IAW §4.20 analogous ratings) under diagnostic code 5298 (coccyx, removal of). 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 coccydynia condition (5299-5298).

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 coccydynia condition was operant in this case and the condition was adjudicated independently of that policy by the Board. In the matter of the coccydynia condition, the Board unanimously recommends a disability rating of 10%, coded 5299-5298 IAW VASRD §4.71a. 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, effective as of the date of his prior medical separation:

|  |  |  |
| --- | --- | --- |
| **UNFITTING CONDITION** | **VASRD CODE** | **RATING** |
| Coccydynia | 5299-5298 | 10% |
| **COMBINED** | **10%** |

The following documentary evidence was considered:

Exhibit A. DD Form 294, dated 20110826, 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 XXXXXXXXXXXX, AR20120011920 (PD201100701)

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 10% 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 XXXXXXXXXXXXXX

Deputy Assistant Secretary

(Army Review Boards)

CF:

( ) DoD PDBR

( ) DVA