RECORD OF PROCEEDINGS

PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXXXXXXXXXXX BRANCH OF SERVICE: air force

CASE NUMBER: PD1100773 SEPARATION DATE: 20050627

BOARD DATE: 20120305

SUMMARY OF CASE: Data extracted from the available evidence of record reflects that this covered individual (CI) was an active duty Staff Sergeant/E-5 (2A651A / Aerospace Propulsion Journeyman), medically separated for Crohn’s disease*.* Abdominal symptoms progressed since onset in 2001 and the CI was diagnosed with Crohn’s disease in May 2004. Medical management allowed good functioning within his Air Force Specialty (AFS). Due to the long-term impact of the condition, the CI was issued a P4 profile and underwent a Medical Evaluation Board (MEB). Crohn’s disease of the small bowel was forwarded 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 Crohn’s disease condition as unfitting, rated 10% with application of DoDI 1332.39 and the Veterans Administration Schedule for Rating Disabilities (VASRD). The CI initially did not concur with the PEB findings; however, he later waived his request for a Formal PEB, and was medically separated with a 10% combined disability rating.

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

RATING COMPARISON:

|  |  |
| --- | --- |
| **Service IPEB – Dated 20050324** | **VA (5 Mo. After Separation) – All Effective Date 20050628** |
| **Condition** | **Code** | **Rating** | **Condition** | **Code** | **Rating** | **Exam** |
| Crohn’s Disease | 7323-7399 | 10% | Crohn’s Disease with GERD & History of Anemia | 7399-7323 | 30% | 20051214 |
| ↓No Additional MEB/PEB Entries↓ | 0% x 2/Not Service Connected x 1 | 20051214 |
| **Combined: 10%** | **Combined: 30%** |

ANALYSIS SUMMARY:

Crohn’s Disease Condition. The CI was diagnosed and treated for Crohn’s disease without surgery prior to separation (he did not undergo abdominal surgery until four years after separation [July 2009]). Both the PEB (10%) and Department of Veterans’ Affairs (DVA) (30%) rated the CI’s condition analogously to 7323 (Colitis, ulcerative). The CI did not have malnutrition, general debility or serious complication such as liver abscess, or other indications of severe attacks to support any rating above 30%. The rating criteria for the 30% rating is “moderately severe; with frequent exacerbations” and the Board deliberated if the CI’s condition was closer to the 30% criteria or was closer to “moderate, with infrequent exacerbations” as envisioned in the 10% criteria.

The narrative summary (NARSUM), eight months prior to separation (18 October 2004), had a scant addendum dated five months prior to separation (10 January 2005 – “… status is unchanged. The recommendation … still applies”). The NARSUM indicated a mild diffusely tender abdomen with a distended firm mass in the right lower quadrant. Multiple colonoscopies in May 2004 had indicated inflammatory changes and strictures consistent with Crohn's of the cecum. Gastroenterology (GI) had started the CI on medical therapy for acute exacerbation of Crohn's to include Prednisone (systemic steroids), Entocort, Pentasa, Iron (for anemia), and Prevacid (for gastric reflux-like (GERD) symptoms). GI notes indicated anemia with lab documentation in June and December of 2004. The NARSUM indicated “current medications; none.”

Treatment notes seven months prior to separation indicated the CI was seen for bloating, diarrhea and blood in the stool, and was restarted on systemic steroids. Repeat GI follow-up included exacerbation and colonoscopy and EGD (esophagogastroduodenoscopy) three months prior to separation demonstrated cecal inflammation. Cecal biopsies indicated markedly inflamed colonic mucosa, crypt abscesses, ulceration and granulation tissue. Two months prior to separation, the CI had exacerbation of symptoms and was started on high dose systemic steroids with a long taper. One month prior to separation the CI continued to have abdominal discomfort, diarrhea and blood in the stools, and “quite a bit of heartburn and insomnia.” The abdomen was tender with fullness in the right side of the mid abdomen and the steroid taper was planned to continue for two to three more months. The CI was started on rectal steroids and heartburn medication.

The VA C&P exam, five ½ months after separation indicated symptoms of abdominal pain and diarrhea and the CI was taking oral steroids at a low dose (5 mg/d – unspecified if part of taper or chronic therapy). The CI was awaiting specialized medical therapy with Remicade and was having continued symptoms of abdominal pain at times, and chronic diarrhea. The CI had anal symptoms of burning and itching with a recurrent (every one to two months) swelling and “tenderness in the right perianal area … that “pops” and discharges pussy, bloody material” which the examiner diagnosed to be a fistula-in-ano with recurrent abscess formation with intermittent discharge through the fistulous track (“related to Crohn's disease and perianal disease of this nature is frequently associated with Crohn's disease”). Anemia appeared to be resolved (missing labs) and the CI had reflux symptoms with some regurgitation without nausea or vomiting. The reflux symptoms were decreased with decreasing prednisone dosage. The CI “was having very little in the way of symptoms of reflux or epigastric distress” at the time of the exam. The VA rated the CI at 30% and specified “when taken as a whole, the evidence (particularly the records in the service medical records which show frequent exacerbations of this condition) that this condition is best classified as moderately severe.” The VA combined the CI’s GI symptoms of Crohn’s disease with Crohn’s related fistula-in-ano, GERD, and corrected anemia IAW §4.114 Schedule of Ratings—Digestive System. Later VA treatment notes and surgery remote from separation confirmed the earlier diagnosis of fistula, but were adjudged as post-separation worsening and not indicative of the CI’s condition at separation.

The Board directs its attention to its rating recommendations based on the evidence just described. All members agreed that the 60% criteria were not met and deliberations focused on the 30% versus 10% ratings. The Board noted that the NARSUM and addendum did not adequately describe the CI’s multiple exacerbations that occurred proximate to separation and that the CI’s anemia, prolonged use of systemic steroids, and peri-anal symptoms supported the criteria of “moderately severe; with frequent exacerbations” as envisioned in the 30% criteria. After due deliberation, considering all of the evidence and mindful of VASRD §4.3 (reasonable doubt), the Board recommends a separation rating of 30% for the Crohn’s disease condition.

Remaining Conditions. No other conditions were noted in the NARSUM, contended by the CI or found elsewhere 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 Crohn’s disease condition, the Board unanimously recommends a permanent service disability rating of 30%, coded 7399-7323 IAW VASRD §4.114. 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 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 his prior medical separation:

|  |  |  |
| --- | --- | --- |
| **UNFITTING CONDITION** | **VASRD CODE** | **RATING** |
| Crohn’s Disease | 7399-7323 | 30% |
| **COMBINED** | **30%** |

The following documentary evidence was considered:

Exhibit A. DD Form 294, dated 20110828, 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 XXXXX

 Reference your application submitted under the provisions of DoDI 6040.44 (Title 10 U.S.C. § 1554a), PDBR Case Number PD-2011-00773.

 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 not appropriate under the guidelines of the Veterans Administration Schedule for Rating Disabilities. Accordingly, the Board recommended your separation be re-characterized to reflect disability retirement, rather than separation with severance pay.

 I have carefully reviewed the evidence of record and the recommendation of the Board. I concur with that finding, accept their recommendation and determined that your records should be corrected accordingly. The office responsible for making the correction will inform you when your records have been changed.

 As a result of the aforementioned correction, you are entitled by law to elect coverage under the Survivor Benefit Plan (SBP). Upon receipt of this letter, you must contact the Air Force Personnel Center at (210) 565-2273 to make arrangements to obtain an SBP briefing prior to rendering an election. If a valid election is not received within 30 days from the date of this letter, you will not be enrolled in the SBP program unless at the time of your separation, you were married or had an eligible dependent child, in such a case, failure to render an election will result in automatic enrollment.

 Sincerely,

X

Director

Air Force Review Boards Agency

Attachment:

Record of Proceedings

cc:

SAF/MRBR

DFAS-IN

PDBR PD-2011-00773

MEMORANDUM FOR THE CHIEF OF STAFF

 Having received and considered the recommendation of the Physical Disability Board of Review and under the authority of Title 10, United States Code, Section 1554a (122 Stat. 466) and Title 10, United States Code, Section 1552 (70A Stat. 116) it is directed that:

 The pertinent military records of the Department of the Air Force relating to XXXXXXXXXXXXXXXX, be corrected to show that:

 a.  The diagnosis in his finding of unfitness for Crohn’s Disease, VASRD code 7399-7323, was rated at 30% rather than 10%.

 b.  He was not discharged on 27 June 2005; rather, on that date he was released from active duty and on 28 June 2005 his name was placed on the Permanent Disability Retired List.

 c.  On 28 June 2005, full spouse-only coverage under the Survivor Benefit Plan (SBP) was established by operation of law.

 d.  On 7 May 2007, he divorced and SBP coverage was suspended.

 e.  On 5 May 2009, he remarried and elected not to resume SBP coverage for his new spouse XX

 Director

 Air Force Review Boards Agency