RECORD OF PROCEEDINGS

PHYSICAL DISABILITY BOARD OF REVIEW

NAME: BRANCH OF SERVICE: Army

CASE NUMBER: PD1100799 SEPARATION DATE: 20060912

BOARD DATE: 20120327

SUMMARY OF CASE: Data extracted from the available evidence of record reflects that this covered individual (CI) was an active duty SPC/E-4 (13D10/Field Artillery Automated Tactical Data Systems Specialist), medically separated for gout, multiple joints (polyarthralgia). He did not respond adequately to treatment and was unable to fulfill the physical demands within his Military Occupational Specialty (MOS) or meet physical fitness standards. He was issued a permanent P3 U2 and L3 profile and underwent a Medical Evaluation Board (MEB). “Chronic 2nd metatarsophalangeal pain of the right lower extremity secondary to gouty arthritis” was forwarded 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 the gout condition as unfitting, rated 0% IAW AR 635-40 para B-15. The CI made no appeals, and was medically separated with a 0% combined disability rating.

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

RATING COMPARISON:

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| **Service PEB – Dated 20060717** | **VA (3 Mos. Post-Separation) – All Effective 20060913** |
| **Condition** | **Code** | **Rating** | **Condition** | **Code** | **Rating** | **Exam** |
| Gout | 5017 | 0% | Right Wrist Gout | 5002 | 10% | 20061205 |
| Right Foot Gout, Second MTP Joint, Plantar Fasciitis… | 5017-5002 | 10% | 20061205 |
| ↓No Additional MEB/PEB Entries↓ | Right Ankle Calcaneal Spurs | 5010 | 10% | 20061205 |
| Right Knee Retropatellar Pain Syndrome | 5014 | 10% | 20061205 |
| Hypertension | 7101 | 10% | 20061205 |
| Abdominal Scars… | 7804 | 10% | 20061205 |
| 0% x 3/Not Service Connected x 7 |  |
| **Combined: 0%** | **Combined: 50%** |

Gout Condition. The CI presented at a Battalion Aid Station in 2003 with non-traumatic right foot pain at the second metatarsophalangeal joint (MTPJ) and was given a presumptive diagnosis of gout. In February of 2005, he had another episode of right foot pain that was slow to improve with the acute gout medications indocin and colchicine and in addition was prescribed antibiotics prophylactically to cover for a possible toe infection, was casted and made non weight bearing to care for a possible stress fracture and underwent an extensive evaluation over the next 13 months. This evaluation included orthopedic, internal medicine and rheumatologic consultations, extensive laboratory evaluations, a bone scan and an MRI. While two joint aspirations of the second MTPJ were inconclusive, the bone scan and MRI demonstrated changes consistent with inflammatory arthritis and an elevated uric acid was consistent with gouty arthritis. He was placed on allopurinol, a preventive gout medication, and indocin and after a month of treatment did not show much improvement. By March 2006 he was seen by Rheumatology who historically documented constant pain of his right foot with two prior flares and new onset right wrist pain. The exam demonstrated swelling, warmth and tenderness of the right wrist and tenderness of the right second MTPJ. A joint aspirate of the right wrist was positive for birefringent crystals and which definitively diagnosed him with gouty arthritis. After a 3 month trial of preventive and acute gout medications as well as physical therapy, the CI continued to have pain and was issued a P3 U2 L3 profile for refractory gout with chronic foot and wrist pain. Limitations included no functional activities except the ability to wear protective mask, no aerobic activity except swim at own pace, no push-ups and allowance for the use of a crutch or cane for his foot pain.

The MEB narrative summary (NARSUM) examiner corroborated the above historical review and subjectively documented right second MTPJ pain 5 of 10 at baseline with exacerbations to 7 of 10, pain worse in the morning, with walking and standing and required the use of a cane or a crutch. The examiner also documented intermittent right wrist pain with edema. The physical exam demonstrated a mild tender right wrist to palpation with full ROM, mild edema over the right second MTPJ with moderate tenderness to palpation and normal, yet painful ROM. The VA Compensation and Pension exam (C&P) performed three months after separation documented minor recurrences of pain of the right second toe and right ankle approximately six times a year and has not had the severe pain since 2003. The right foot exam demonstrated no tenderness over the second MTPJ, no weakness or fatigability, no edema, and a noted mild limp with preference to weight bear on the lateral aspect of the right foot. The right wrist exam demonstrated minimal tenderness on palpation, normal but painful ROM’s specifically with dorsiflexion and palmar flexion.

Based on the above evidence, the Board directed its attention to its rating recommendation for the gout condition. The PEB found gout, polyarticular, mainly affecting the right second MTPJ and citing the aspiration of another joint unfitting and rated the right second MTPJ at 10% based on painful motion under VASRD code 5002. The VA chose to rate the chronic residual of the second right toe, plantar fasciitis, and hallux valgus with degenerative changes at 10% citing rating criteria for both the gout code 5017 “right foot disorder meets the criteria for a 10 percent evaluation for pain with palpation and x-ray evidence of arthritis in a major joint” and for the active arthritis code 5002 “minor exacerbations 6 times per year on medication to include indocin, colchicine and allopurinol which help, limitations walking >25 minutes.” The VA coded the right wrist 5002 using the same citations as the right foot yet did not use the analogous 5017 code. VASRD rating guidance for gouty arthritis (code 5017) directs rating under the criteria for rheumatoid arthritis (5002), another form of inflammatory arthritis. For the minimum rating of 20%, 5002 requires that gout be an active process with one or two exacerbations a year in a well-established diagnosis. For rating residuals, VASRD guidance for rating gout under diagnostic code 5002 states:

For residuals such as limitation of motion or ankylosis, favorable or unfavorable, rate under the appropriate diagnostic codes for the specific joints involved. Where, however, the limitation of motion of the specific joint or joints involved is noncompensable under the codes a rating of 10 percent is for application for each such major joint or group of minor joints affected by limitation of motion, to be combined, not added under diagnostic code 5002. Limitation of motion must be objectively confirmed by findings such as swelling, muscle spasm, or satisfactory evidence of painful motion. Note: The ratings for the active process will not be combined with the residual ratings for limitation of motion or ankylosis. Assign the higher evaluation.

The Board reviewed the evidence and noted one gout exacerbation a year in 2005 (right toe) and 2006 (right toe and wrist), the VA C&P exam historically documenting minor exacerbations six times per year, and a permanent P3 profile listing both the right second MTPJ and the right wrist. The Board agreed the current description is most consistent with continued active gout coded 5002 involving the right second MTPJ and the right wrist supporting the rating of no more than 20 percent as the evidence did not show incapacitating exacerbations occurring three or more times a year which supports the 30% evaluation. After due deliberation, considering all of the evidence and mindful of VASRD §4.3 (reasonable doubt), the Board recommends a separation rating of 20% for the gout condition.

Remaining Conditions. Other conditions identified in the DES file were hypertension treated with lisinopril, right lower quadrant intermittent abdominal pain s/p diagnostic laparotomy with appendectomy; near-sightedness and 30 pound weight gain. Several additional non-acute conditions or medical complaints were also documented. None of these conditions were significantly clinically or occupationally active during the MEB period; none carried attached 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 right ankle calcaneal spurs and right knee retropatellar pain syndrome 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. Abdominal scar was noted in the VA proximal to separation and by precedent, the Board does not recommend separation rating for scars unless their presence imposes a direct limitation on fitness. 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. As discussed above, PEB reliance on IAW AR 635-40 for rating gout condition was operant in this case and the condition was adjudicated independently of that instruction by the Board. In the matter of the gout condition, the Board unanimously recommends a rating of 20% coded 5002 IAW VASRD §4.71a. In the matter of the hypertension, right lower quadrant intermittent abdominal pain s/p diagnostic laparotomy with appendectomy; near-sightedness and 30 pound weight gain conditions 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. 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, effective as of the date of his prior medical separation:

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| **UNFITTING CONDITION** | **VASRD CODE** | **RATING** |
| Gout | 5002 | 20% |
| **COMBINED** | **20%** |

The following documentary evidence was considered:

Exhibit A. DD Form 294, dated 20110824, w/atchs

Exhibit B. Service Treatment Record

Exhibit C. Department of Veterans Affairs Treatment Record

 President

 Physical Disability Board of Review

SFMR-RB

MEMORANDUM FOR Commander, US Army Physical Disability Agency

SUBJECT: Department of Defense Physical Disability Board of Review Recommendation

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

 Deputy Assistant Secretary

 (Army Review Boards)