RECORD OF PROCEEDINGS

PHYSICAL DISABILITY BOARD OF REVIEW

NAME: xxxxxxxxxxxxxxxxx BRANCH OF SERVICE: Army

CASE NUMBER: PD1100896 SEPARATION DATE: 20090906

BOARD DATE: 20120628

SUMMARY OF CASE: Data extracted from the available evidence of record reflects that this covered individual (CI) was an active duty SPC/E-4 (21Y/Geospatial Engineer), medically separated for heat stroke with rhabdomyolysis. The CI developed heat-related symptoms during training in 2007. Laboratory evidence indicated muscle breakdown components were elevated with these episodes (rhabdomyolosis) and chronically. Symptoms of muscle cramping, abdominal pain/nausea, excessive sweating and general body aches recurred with strenuous activities or physical therapy. There were no treatments available to permit the CI to meet physical requirements of his Military Occupational Specialty (MOS) or satisfy physical fitness standards. He was issued a permanent 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 heat stroke with rhabdomyolysis as unfitting, rated 0%, with application of the Veteran’s Affairs Schedule for Rating Disabilities (VASRD) and the Department of Defense Instruction (DoDI) 1332.39. The CI made no appeals, and was medically separated with a 0% disability rating.

CI CONTENTION: “I got discharged from the U. S. Army due to a Heat Stroke and Rhabdomyolysis. I feel as though the rating was unfair. Why? Because I had a heat stroke. My body has not recovered. After my heat stroke I got Rhabdomyolysis. My muscles break down (sic). I cannot exercise. I am heat intolerant as well. I am limited to many jobs. I should of gotten more because of the major limitations. My body hasn’t and never will be the same from the stroke. I am now more susceptable (*sic*) to another heat stroke because of the first stroke. Please examine my rating. Please review copies of my Army medical records.” In Item #14 (continuation of VA Rating Information), the CI stated: “The Department of Veterans Affairs denied me a rating (0%) for my heat stroke. I get benefits for something unrelated to my Army medical discharge. (Mood disorder) I got 0% from the Depart of Veterans of Affairs for heat stroke just as the Army gave me 0%.”

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 conditions heat stroke and rhabdomyolysis as requested for consideration meet the criteria prescribed in DoDI 6040.44 for Board purview; and, are 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 20090512** | | | **VA (3 Mos. Post-Separation) – All Effective Date 20090907** | | | |
| **Condition** | **Code** | **Rating** | **Condition** | **Code** | **Rating** | **Exam** |
| Heat Stroke with Rhabdomyolysis | 7999-7900 | 0% | Residuals of heat stroke (claimed as syncope/fainting spells, muscle condition, and rhabdomyolysis) | 8999-8911 | 0% | 20091208 |
| Heat/exercise intolerance to include malignant hyperthermia | 7199-7101 | NSC | 20091208 |
| ↓No Additional MEB/PEB Entries↓ | | | Mood disorder (also claimed as depression) | 9433-9435 | 30% | 20091112 |
| 0% X 0 / Not Service-Connected (NSC-above) | | | |
| **Combined: 0%** | | | **Combined: 30%** | | | |

ANALYSIS SUMMARY: Board acknowledges the sentiment expressed in the CI’s application regarding the significant impairment with which his service-aggravated condition continues to burden him. It is a fact, however, that the Disability Evaluation System (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 DVA, operating under a different set of laws (Title 38, United States Code), is empowered to compensate service-connected conditions and to periodically re-evaluate said conditions for the purpose of adjusting the veteran’s disability rating should his degree of impairment vary over time. The Board utilizes DVA evidence proximal to separation in arriving at its recommendations; and, DoDI 6040.44 defines a 12-month interval for special consideration to post-separation evidence. The Board’s authority as defined in DoDI 6044.40, however, resides in evaluating the fairness of DES fitness determinations and rating decisions for disability at the time of separation. Post-separation evidence therefore is probative only to the extent that it reasonably reflects the disability and fitness implications at the time of separation.

Heat Stroke with Rhabdomyolysis. At the MEB exam, the record indicated the CI had heat intolerance complicated by chronic rhabdomyolysis and sickle cell trait. He had severe leg cramping when trying to run and myoglobin and creatine kinase levels (muscle breakdown indicators) were chronically elevated even when the CI did not have symptoms. The MEB physical exam noted abnormal lab findings, with no abnormal exam findings. The last loss of consciousness/syncope was indicated as in 2007. The CI was on no active medications. The present condition was “documented chronic rhabdomyolysis and is now asymptomatic, but only at the cost of severely limited activity.” A post-PEB muscle biopsy, prior to separation, was positive for malignant hyperthermia.

The VA Compensation and Pension (C&P) exam, 3 months after separation, was for complaints of residuals of heat stroke; rhabdomyolosis; syncope; and heat and exercise intolerance. The CI reported a similar history of his condition with the addition of having two to three episodes of fatigue and muscle weakness within the prior 3 months. Exam indicated normal physical findings with an abnormal EKG (t-wave abnormality and voltage criteria for left ventricular hypertrophy, and early repolarization).

The Board directs attention to its rating recommendation based on the above evidence. There were numerous analogous disability coding options discussed including 7900 (hyperthyroidism), 7101 (hypertensive vascular disease) and 8911 (epilepsy, petit mal). There was no indication of a primary cardiac abnormality, and the rating criteria from either 7900 or 8911 would be at the 0% level due to lack of chronic medications, or loss of consciousness/syncope within the year prior to separation. There was no path to coding higher than a 0% rating level. After due deliberation, considering all of the evidence and mindful of VASRD §4.3 (reasonable doubt), the Board concluded that there was insufficient cause to recommend a change in the PEB adjudication for the heat stroke with rhabdomyolysis condition.

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. The Board did not surmise from the record or PEB ruling in this case that any prerogatives outside the VASRD were exercised. In the matter of the heat stroke with rhabdomyolysis condition and IAW VASRD §4.119, the Board unanimously recommends no change in the PEB adjudication. There were no other conditions within the Board’s scope of review for consideration.

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** |
| Heat Stroke with Rhabdomyolysis | 7999-7900 | 0% |
| **COMBINED** | **0%** |

The following documentary evidence was considered:

Exhibit A. DD Form 294, dated 20111008, 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 XXXXXXXXXXXXXXXXXXX, AR20120011974 (PD201100896)

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 and hereby deny the individual’s application.

This decision is final. The individual concerned, counsel (if any), and any Members of Congress who have shown interest in this application have been notified of this decision by mail.

BY ORDER OF THE SECRETARY OF THE ARMY:

Encl XXXXXXXXXXXXXXX

Deputy Assistant Secretary

(Army Review Boards)

CF:

( ) DoD PDBR

( ) DVA