RECORD OF PROCEEDINGS

PHYSICAL DISABILITY BOARD OF REVIEW

NAME: BRANCH OF SERVICE: air force

CASE NUMBER: PD1100898 SEPARATION DATE: 20090928

BOARD DATE: 20110629

SUMMARY OF CASE: Data extracted from the available evidence of record reflects that this covered individual (CI) was an active duty SSGT/E-5 (3P071, Security Forces) medically separated for asthma. The CI was diagnosed with obstructive sleep apnea (OSA) in 2006, which was successfully managed with a continuous positive airway pressure (CPAP) nocturnal device. He was cleared by a Medical Evaluation Board (MEB) for the OSA, and the condition remained well controlled; but, in 2008 he developed exertional wheezing. This was diagnosed as asthma by a methacholine challenge test. His asthma symptoms did not respond adequately to treatment to meet the physical requirements of his Air Force Specialty (AFS), and he was referred for a second MEB in 2009. Asthma was forwarded to the Physical Evaluation Board (PEB) as medically unacceptable IAW AFI 48-123, and no other conditions were submitted on the AF IMT Form 618. The PEB adjudicated the asthma condition as unfitting, rated 10%, referencing the Veterans Administration Schedule for Rating Disabilities (VASRD). The OSA condition appeared on the PEB’s AF Form 356 as Category II (conditions that can be unfitting but are not currently compensable or ratable). The CI made no appeals, and was medically separated with a 10% disability rating.

CI CONTENTION: “Developed Asthma.” He does not elaborate further or specify a request for Board consideration of any additional conditions.

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 are reviewed in all cases, and the asthma condition is addressed below. The OSA condition was not requested for consideration, and is therefore not within the Board’s purview; although, it should be further noted that VASRD §4.96 does not permit dual rating of coexisting respiratory conditions. A rating for OSA (in lieu of asthma), or any conditions not requested in this application, remain eligible for future consideration by the Air Force Board for Correction of Military Records (AFBCMR).

RATING COMPARISON:

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Service PEB – Dated 20090519** | | | **VA (5 Mo. After Separation) – All Effective Date 20090929** | | | |
| **Condition** | **Code** | **Rating** | **Condition** | **Code** | **Rating** | **Exam** |
| Asthma, Mild Persistent | 6602 | 10% | Sleep Apnea with Mild Persistent Asthma | 6602-6847 | 50% | 20100310 |
| OSA requiring CPAP | Category II | |
| No Additional MEB/PEB Entries | | | Cervical Arthritis | 5237-5003 | 10% | 20100308 |
| Diabetes Mellitus Type II | 7913 | 10% | 20100308 |
| 0% x 3 / Not Service-Connected x 1 | | | 20100308 |
| **Combined: 10%** | | | **Combined: 60%** | | | |

ANALYSIS SUMMARY:

Asthma Condition. The service treatment record (STR) and the MEB’s narrative summary (NARSUM) establish that the preceding OSA condition was fully controlled on CPAP, with no residual daytime symptoms. The NARSUM stated, “not feeling tired or poorly and no lethargy. No drowsiness while driving.” The STR notes the diagnosis of asthma in late 2008, primarily manifested by wheezing with exertion and diminished exercise tolerance. In October 2008 the CI was prescribed Albuterol (inhaled bronchodilator) for pre-exercise use and daily Singulair (an oral indirect-acting bronchodilator). The NARSUM documented that the Singulair had been discontinued because of a nausea side effect, and that the CI “used the albuterol on occasion during the day, and takes puffs before exercise.” Medication records show that albuterol was last dispensed on 12 November 2008 (less than 10 months prior to separation), which would not sustain regular daily use. The NARSUM documented, “he reports no recent missed work, emergency room visits or admissions for asthma, or prednisone prescriptions. He passed his AF fitness test last July. He is exercising on a regular basis now.” The VA Compensation and Pension (C&P) evaluation, performed 5 months after separation, corroborated the clinical course and medication usage noted in the NARSUM. Both the MEB and VA pulmonologists made a diagnosis of “mild persistent asthma.” The VA examiner opined that there was no occupational impairment from asthma, and that the only activity limitation was “difficulty breathing with heavy exercise; now that he is out of the military he avoids heavy exercise due to this problem.”

The pulmonary function test (PFT) results by the MEB and the VA, which are critical to rating IAW VASRD §4.97, were the following. The only PFT evidence from the MEB appeared to result from the methacholine challenge test, measuring a response to bronchospastic provocation, rather than obtaining a post-bronchodilator response (as dictated by VASRD §4.96). The values cited (since the core report is not on record, it is unclear if these were pre- or post-provocation) were an FEV1 of 55% predicted and an FEV1/FVC ratio of 79%. The technician entered “patient gave no effort during any of the tests. A reproducible test was not achieved for spirometry or lung volumes.” The clinical interpretation was “moderate restriction;” caveated by, “poor patient effort, test results questionable without reproducible data.” The following excerpt from the NARSUM documents the MEB pulmonologist’s opinion regarding the spirometry findings.

Despite the restrictive pattern on the member's PFTs (which has remained consistent), his methacholine challenge was positive. This, and his clinical symptoms, are consistent with asthma. I suspect that the restrictive pattern observed is likely due to his weight, as his chest X-ray was normal in Oct 08 without suggestion of interstitial lung disease.

The VA PFT, performed 6 months after separation, yielded a post-bronchodilator FEV1 of 70% predicted, and an FEV1/FVC ratio of 103%. Although there was no comment from the VA technician documenting effort, the volumes and flow rates recorded are inconsistent with the clinical picture; and, the VA examiner caveated his interpretation with the statement, “full lung volumes are necessary to confirm this diagnosis.”

The Board directs attention to its rating recommendation based on the above evidence. VASRD §4.97 rating criteria for asthma are based on the number and severity of clinical exacerbations; the type and the frequency of medications used to treat the condition; and PFT values for FEV1 and FEV1/FVC ratio. No severe exacerbations, requirement for systemic steroids, or daily use of rated medications (inhalational or oral bronchodilator, inhalational anti-inflammatory) were in evidence; thus a rating higher than 10% cannot be achieved by any non-PFT criteria. The PFT parameters for a 60% rating are “FEV-1 of 40- to 55-percent predicted, or; FEV-1/FVC of 40 to 55 percent;” for a 30% rating, both ranges are 56-70%; and for a 10% rating, both ranges are 71-80%. The MEB’s FEV1 measurement of 55% meets the §4.97 criterion for a rating of 60%. All members readily agreed; however, that the lack of post-bronchodilator measurements as specified by §4.96 (and the unequivocal documentation that the measurements were invalid at any rate) negated the probative value of this evidence in support of a Board recommendation based on the MEB measurements. The members then deliberated if the VA’s post-bronchodilator FEV1 of 70%, which just meets the 30% criterion, carried the probative weight to support a recommendation for that rating. It is noted that the VA subsumed any asthma rating in the overall OSA rating, although the VA rating decision stated “the examiner did not note any compensable level of disability due to your mild persistent asthma.” After considerable deliberation, members agreed [member consensus was] that a 30% recommendation on this basis was not supported because the mild clinical features in evidence (with exertional symptoms only) was not congruent with either the recorded FEV1 or with significant disability in general; and, there was ample evidence to conclude that the clinical validity of the PFT evidence was unacceptably compromised. Considering the totality 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 of the asthma 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 asthma condition and IAW VASRD §4.96 and §4.97, 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:

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| **UNFITTING CONDITION** | **VASRD CODE** | **RATING** |
| Mild Persistent Asthma | 6602 | 10% |
| **COMBINED** | **10%** |

The following documentary evidence was considered:

Exhibit A. DD Form 294, dated 20111001, 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

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Dear XXXXXXXXXX:

Reference your application submitted under the provisions of DoDI 6040.44 (Title 10 U.S.C. §1554a), PDBR Case Number PD-2011-00898.

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 appropriate. Accordingly, the Board recommended no re-characterization or modification of your separation with severance pay.

I have carefully reviewed the evidence of record and the recommendation of the Board. I concur with that finding and their conclusion that re-characterization of your separation is not warranted. Accordingly, I accept their recommendation that your application be denied.

Sincerely,

Director

Air Force Review Boards Agency

Attachment:

Record of Proceedings