RECORD OF PROCEEDINGS

PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXXXXXXXXX BRANCH OF SERVICE: Army

CASE NUMBER: PD1100937 SEPARATION DATE: 20040907

BOARD DATE: 20120823

SUMMARY OF CASE: Data extracted from the available evidence of record reflects that this covered individual (CI) was an active duty SGT/E-5 (91W, Nuclear Medicine Specialist) medically separated for left sacroiliac and bilateral knee conditions. The CI had a long standing history of pain related to these conditions, and symptoms worsened after a 2003 deployment to Iraq. The diagnoses were left sacroiliac dysfunction and bilateral patellofemoral pain syndrome. Neither condition could be adequately rehabilitated to meet the physical requirements of her Military Occupational Specialty (MOS) or satisfy physical fitness standards. She was consequently issued a permanent L3 profile and referred for a Medical Evaluation Board (MEB). The left sacroiliac and bilateral knee diagnoses were forwarded to the Physical Evaluation Board (PEB) as separate medically unacceptable conditions IAW AR 40-501. Also addressed by the MEB and forwarded on the DA Form 3947 was “abnormal uterine bleeding,” judged to meet retention standards. The PEB adjudicated the left sacroiliac and bilateral knee diagnoses as a single unfitting condition, rated 10%, referencing the US Army Physical Disability Agency (USAPDA) pain policy. The uterine bleeding condition was determined to be not unfitting. The CI made no appeals, and was medically separated with a 10% disability rating.

CI CONTENTION: The application states “The applicant's contention that she should have been assigned a higher percentage of disability because the medical diagnosis was not included in her rating nor were requests made to clarify different diagnosis. …” There is a lengthy explanation of facts and rationales in support of a requested rating for post-traumatic stress disorder (PTSD). There is no mention of the PEB adjudicated conditions or 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 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 conditions “identified but not determined to be unfitting by the PEB.” The ratings for unfitting conditions are reviewed in all cases, and are addressed below. The requested consideration for disability rating of posttraumatic stress disorder (PTSD) is not within the DoDI 6040.44 defined purview of the Board. The uterine bleeding condition adjudicated as not unfitting by the PEB was not requested for review. The PTSD, uterine bleeding, or any conditions or contention not requested in this application, remain eligible for future consideration by the Army Board for the Correction of Military Records.

RATING COMPARISON:

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Service PEB – Dated 20040430** | | | **VA (1 Mo. Post-Separation) – All Effective 20040908** | | | |
| **Condition** | **Code** | **Rating** | **Condition** | **Code** | **Rating** | **Exam** |
| Chronic Pain, Left Sacroiliac Joint and Bilateral Knees | 5099-5003 | 10% | Right Knee PFS | 5099-5003 | 0% | 20041014 |
| Left Knee PFS | 5099-5003 | 0% | 20041014 |
| Lumbar Strain/Left Sacroiliac | 5237 | 0% | 20041014 |
| Abnormal Uterine Bleeding | Not Unfitting | | Abnormal Uterine Bleeding | 7699-7629 | NSC | 20041014 |
| No Additional MEB/PEB Entries | | | Not Service-Connected x 5 Additional\* | | | 20041014 |
| **Combined: 10%** | | | **Combined: 0%** | | | |

ANALYSIS SUMMARY:

Combined Joint Conditions. The PEB combined the left sacroiliac and the left and right knee conditions under a single code, analogous to 5003 (degenerative arthritis) and rated 10%, relying on the USAPDA pain policy and possibly AR 635-40 for not applying separately rated VASRD codes. IAW VASRD §4.71a, the Board must apply separate codes and ratings in its recommendations if compensable ratings for each condition are achieved. When the Board judges that two or more separate ratings are possibly warranted in such cases, however, it must satisfy the requirement that each “unbundled” condition was itself separately unfitting and thus eligible for separate rating. Thus the Board must exercise the prerogative of separate fitness recommendations in this circumstance, with the caveat that its recommendations may not produce a lower combined rating than that of the PEB. The Board’s analysis and recommendations regarding the separate fitness issue and potential separate rating for each condition entrained in the PEB’s combined rating approach is as follows.

Left Sacroiliac Condition. The CI experienced an onset of pain localized to the left lower lumbosacral region with running in 1999, which was chronic and recurrent afterwards. It was variously attributed to lumbosacral spine, left hip, and pelvic pain diagnoses in subsequent entries; but, a diagnosis of left sacroiliac joint dysfunction appeared in the record in 2002; and, this would appear to be the diagnosis forwarded by the MEB and adjudicated for rating. The condition was managed by physical therapy (PT), local steroid injections, and temporary profiles (as left hip pain). X-rays of the spine and hip were normal and there were no surgical indications. The narrative summary (NARSUM) characterized the pain only as “constant low back pain on the left with intermittent flares.” The physical examination documented left sacroiliac joint tenderness, and recorded range-of-motion (ROM) measurements for both the lumbar spine and left hip. Lumbar flexion was normal at 90⁰, although extension and left excursions were modestly “decreased due to pain.” Reductions of left hip flexion to 95⁰ (normal 125⁰) and abduction to 40⁰ (normal 45⁰) were also documented and attributed to pain. The VA Compensation and Pension (C&P) examination, performed a month after separation, noted constant pain rated 5/10; with flares to 8/10 triggered by bending, lifting, prolonged standing, and extended walking. The VA physical exam documented a normal gait and no localized tenderness or spasm. Fully normal ROM measurements for the thoracolumbar spine and left hip were recorded, although pain thresholds were also present (with grimacing for hip motion and no objective signs for spine motion).

The Board directs attention to its rating recommendation based on the above evidence. The Board first considered if the left sacroiliac condition, having been de-coupled from the combined PEB adjudication, remained independently unfitting as established above. All members agreed that the functional limitations in evidence which were attributable to the sacroiliac condition would have rendered the CI incapable of continued service within her MOS; and, accordingly justify a separate rating. The Board next considered the optimal coding approach, since either thoracolumbar or left hip rating could be justified by the associated disability; and, the precise etiology is open to question. It was agreed that separate ratings could not be justified without violation of VASRD §4.14 (avoidance of pyramiding). Given that no compensable ROM limitation was in evidence for either thoracolumbar spine or hip joint rating, and that only the minimum compensable rating of 10% premised on VASRD §4.59 (painful motion) could be supported for either; members agreed on the preferred code of 5299-5237 (lumbosacral strain). It is unclear why §4.59 was not applied by the VA rater. After due deliberation, considering all of the evidence and mindful of VASRD §4.3 (reasonable doubt), the Board recommends a separate disability rating of 10% for the left sacroiliac condition under the above code.

Bilateral Knee Condition(s). The CI experienced persistent bilateral knee pain following a road march in 1998. Her working diagnosis was retropatellar pain syndrome, and the condition was managed with PT and anti-inflammatory medications. She was issued a permanent L2 profile. The knee pain increased during a 9 month deployment to Iraq in 2003, and her profile was upgraded to L3 after redeployment; although, the medical entry assigning the profile change suggests this was based more on the hip and back pain associated with the sacroiliac condition. There are no outpatient entries documenting ongoing PT or active treatment directed at the knee condition in the interval between redeployment and separation. X-rays by the VA at separation showed minimal degenerative changes (patellae) bilaterally. The NARSUM documented only the following regarding the disability at that time (5 months prior to separation): “She also reports she has dull aching bilateral knee pain which is intermittent in nature. She reports that she has popping in her knees with bending. Her back and knee pain is worse with road marching, running and lifting.” The NARSUM exam documented tenderness to patellar compression; without effusion, edema, ligamental laxity, or signs of cartilage impingement. ROM measurements documented flexion of 122⁰ (normal 140⁰; minimal compensable 45⁰) on the right and 108⁰ on the left. At the post-separation VA C&P evaluation, the CI denied “that this [knee] pain causes any interference in her normal daily activities,” and she was taking no medication for it. She reported exacerbations rated 3/10 “after sitting for more than thirty minutes.” The VA physical exam was remarkable only for “crepitus palpable under the patella with extreme flexion and extension.” All other findings were normal, as with the MEB exam. ROM findings were equivalent bilaterally, “flexion 0 to 140⁰ without pain.”

The Board directs attention to its rating recommendation based on the above evidence. The Board first considered if the bilateral knee condition remained independently unfitting as established above. Although it was judged by the MEB provider to fail retention standards, was listed in the commander’s statement, and was included on the L3 profile; it is difficult to find evidence which supports a conclusion that, after recovering from the rigors of the 2003 deployment, it was worse at separation than it had been for years under the L2 profile. The VA evaluation performed a month after separation, which was more probative to disability at separation than the NARSUM exam performed 6 months earlier, documents the absence of any significant impairment. The NARSUM evidence itself notes only general soldiering limitations, shared with the sacroiliac/hip impairment; but, not MOS-specific impediments. The lack of any clinical evaluations or treatment for an extended period prior to separation leaves the Board with no performance based criteria on which to base a determination that the knee condition was unfitting. The only probative outpatient documentation, in fact, was the profile review referenced above; which concentrated on the sacroiliac and gynecologic issues, and only mentioned the knees in passing. The L3 profile did not add any limitations referable to the knees that were not present on the L2 profile under which the CI met MOS requirements for an extended period. The commander’s statement listed all of the profiled conditions, but did not detail the nature of any physical limitations. Finally it must be noted that, even if the condition were conceded as unfitting, criteria for a compensable rating are not supported (with the tenuous exception of a bilateral 10% analogous to 5003); and, thus no practical benefit to the CI would accrue. After due deliberation in consideration of the preponderance of the evidence, the Board concluded that there was insufficient support for recommending the addition of bilateral patellofemoral pain syndrome as an unfitting condition for disability 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 the USAPDA pain policy and possibly AR 635-40 for rating the left sacroiliac and bilateral knee conditions was operant in this case, and those conditions were adjudicated independently of that policy and regulation by the Board. In the matter of the left sacroiliac condition, the Board unanimously recommends a disability rating of 10%, coded 5299-5237 IAW VASRD §4.71a. In the matter of the bilateral knee condition, the Board unanimously agrees that it cannot recommend a finding of unfit for additional disability rating. 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 her prior medical separation:

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| --- | --- | --- |
| **UNFITTING CONDITION** | **VASRD CODE** | **RATING** |
| Left Sacroiliac Dysfunction | 5299-5237 | 10% |
| Patellofemoral Pain Syndrome, Bilateral Knees | Not Unfitting | |
| **COMBINED** | **10%** |

The following documentary evidence was considered:

Exhibit A. DD Form 294, dated 20111020, 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 XXXXXXXXXXXXXXXXXXXXXXX, AR20120015824 (PD201100937)

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 description without modification of the combined rating or 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 XXXXXXXXXXXXXXXX

Deputy Assistant Secretary

(Army Review Boards)

CF:

( ) DoD PDBR

( ) DVA