RECORD OF PROCEEDINGS

PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXXXXXXXXXXXXXXX BRANCH OF SERVICE: Army

CASE NUMBER: PD1100938 DATE OF PLACEMENT ON TDRL: 20050707

BOARD DATE: 20120921 Date of Permanent SEPARATION: 20070220

SUMMARY OF CASE: Data extracted from the available evidence of record reflects that this covered individual (CI) was a Reserve, SSG/E-6 (88M30/Motor Transport Operator), medically separated for chronic bilateral knee pain; rated as slight--intermittent use of narcotic pain medication/constant and chronic right ilioinguinal nerve pain; rated as moderate. The CI’s bilateral knee pain was due to trauma and not recommended for surgery. The CI’s right inguinal (lower abdomen and groin) pain was following an appendectomy. The bilateral knee pain and chronic right ilioinguinal nerve pain conditions did not improve adequately with treatment to meet the physical requirements of his Military Occupational Specialty (MOS) or satisfy physical fitness standards. He was issued a permanent P3/L3 profile and referred for a Medical Evaluation Board (MEB). Two other conditions were also identified and forwarded by the MEB as medically acceptable. The Informal Physical Evaluation Board (IPEB) rated the CI at a combined 30% disability with entry on the Temporary Disability Retired List (TDRL) with ratings as reflected in the chart below for the bilateral knee (20%) and right inguinal nerve (10%) conditions. The CI was reevaluated while on TDRL and the IPEB adjudicated the chronic bilateral knee pain and chronic right ilioinguinal nerve pain conditions as unfitting, rated 10% and 10% respectively. The CI appealed to the Formal PEB (FPEB) which adjudicated the bilateral knee pain unfitting at 20% and the ilioinguinal nerve pain at 0%, with specified application of the US Army Physical Disability Agency (USAPDA) pain policy for rating the knee condition and with specifying the Veterans Administration Schedule for Rating Disabilities (VASRD) criteria for the ilioinguinal condition. The CI was therefore medically separated with a 20% disability rating.

CI CONTENTION: “The representation I had didn’t turn-in all necessary paperwork show that I took pain medication for the nerve and chronic knee pain. The doctor document that I was already taken pain medicine so he didn’t write another prescription.” [*sic*]

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 unfitting chronic bilateral knee pain and chronic right ilioinguinal nerve pain conditions meet the criteria prescribed in DoDI 6040.44 for Board purview, and are accordingly 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 Correction of Military Records.

TDRL RATING COMPARISON:

|  |  |
| --- | --- |
| **Service FPEB – Dated 20070206** | **VA – All Effective Date 20060629** |
| **Condition** | **Code** | **Rating** | **Condition** | **Code** | **Rating** | **Exam** |
| **On TDRL – 20050707** | **TDRL** | **Sep.** |
| Bilateral Knee Pain | 5099-5003 | 20% | 20% | Chrondromalacia, L. Knee  | 5014-5261 | 20%\* | 20061130 |
| Chrondromalacia, R. Knee  | 5014-5261 | 20%\* | 20061130 |
| Right Ilioinguinal Nerve Pain | 8799-8730 | 10% | 0% | Residual Ilioinguinal Neuropathy, ...  | 8730 | 0% | 20050930 |
| Primary Focal Hyperhydrosis | Not Unfitting | Primary Focal Hyperhidrosis | 7832 | 30% | 20050930 |
| Organic Impotence | Not Unfitting | Erectile Dysfunction | 7522 | 0% | 20050930 |
| ↓No Additional MEB/PEB Entries↓ | Post Traumatic Stress Disorder | 9411 | 10%\* | 20061017 |
| Not Service Connected x 10 | 20050930 |
| Combined: 20% | Combined: 60%\* |

\* Knees earlier rated as 5099-5014 at 10% each (exam 20050930) effective 20050707; posttraumatic stress disorder (PTSD) rated 10% from 20050707 then 70% from 20101103 (combined 30% from 20050707, 60% from 20060629, then 90% from 20101103.

ANALYSIS SUMMARY:

Bilateral Knee Pain Condition. There were multiple goniometric range-of-motion (ROM) evaluations in evidence, with documentation of additional ratable criteria, which the Board weighed in arriving at its rating recommendation; as summarized in the TDRL-entry and TDRL-exit (permanent separation) charts below.

TDRL-Entry:

|  |  |  |  |
| --- | --- | --- | --- |
| Knee ROM | MEB ~6 Mo. Pre-TDRL | PT ~6 Mo. Pre-TDRL | VA C&P ~2 Mo. Post-TDRL |
| Left | Right | Left | Right | Left | Right |
| Flexion (140⁰ Normal) | Full or 120⁰-130⁰ | 0⁰(5⁰,5⁰) | 0⁰(5⁰,5⁰)  | 85⁰ | 85⁰ |
| Extension (0⁰ Normal) | 0⁰ | 80⁰(80⁰,100⁰) | 80⁰(80⁰,100⁰) | 0⁰ | 0⁰ |
| Comment | Antalgic gait with cane; full painful ROM; tender; + patellar grind; ortho says flexion 120—130⁰  | Motor fair, decreased AROM; R knee pain increased  | + McMurray’s R>L; painful motion |
| §4.71a Rating | 10% | 10% | 10% | 10% | 10% | 10% |

TDRL-Exit:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Knee ROM | PT ~7 Mo. Pre-Sep | NARSUM ~ 5 Mo. Pre-Sep | VA C&P ~3 Mo. Pre-Sep | VA C&P ~11 Mo. Post-Sep |
| Left | Right |  | Left | Right | Left | Right |
| Flexion (140⁰ Normal) | 76⁰,74⁰,75⁰ | 67⁰,72⁰,68⁰ | Bilateral “full ROM” | 72⁰ | 72⁰ | 90⁰ | 90⁰ |
| Extension (0⁰ Normal) | -1,-2,-1 | -4,-4,-4 | -15⁰ | -15⁰ | 0⁰ | 0⁰ |
| Comment | Limited ROM appears to be due to pain\* | No effusion; + min pain w/ patellar grind; stable; walks with a cane and bilateral knee braces gait  | Tender; painful motion; stable knees; slow gait; unable repetition per CI pain (see text) | Tender; stable. Symptoms not explainable; refer for possible conversion d/o (see text) |
| §4.71a Rating | 10% | 10% | 10% | 10% | 20% | 20% | 10% | 10% |

\* Neuro addendum ~ 7 mo pre-sep noted “Antalgic limping”

The narrative summary (NARSUM) indicated the CI injured both knees when he dove under his truck while his convoy was under attack in Iraq. He complained of bilateral knee pain and swelling and was unable to run due to pain. He was diagnosed with bilateral chondromalacia patella and the consultant stated surgery would not be helpful. The knee exams are summarized in the TDRL entry chart above. Bone scan was negative and the diagnosis was bilateral chondromalacia patella. The VA exam proximate to TDRL entry is summarized above with a similar history. The examiner noted observed behavior in the exam room such as “dresses without difficulty. He puts on his own splints putting them over his feet himself without difficulty” and made a comment that “there are anatomic inconsistencies in this examination.”

At the TDRL re-evaluation exam, five months prior to separation, the CI reported no change in bilateral knee pain symptoms with requirement for narcotic medication and assistance to walk. The exam is summarized above with radiographs reported as “minimal degenerative changes in his anterior compartment only, patellofemoral joint.” The physician stated “patient is on temporary disability retired list for bilateral chondromalacia. Patient's subjective complaints do not match his objective findings.”

At the VA Compensation and Pension (C&P) exam performed 3 months prior to separation, the CI reported painful knee motion and that he was employed with work accommodations for his sitting and standing 50% of the time. He stated his left knee gave way frequently and he had fallen 4 times in the last 4 weeks with knees also occasionally locking or catching which he was able “to overcome easily.” He was able to do all activities of daily living except that he has some assistance taking his shoes and socks off. The (CI) uses braces on both knees, which he has now. The examiner accomplished multiple ROM evaluations in different positions with varying results for ROMs. The examiner stated “I was unable to get him to go to complete straight leg so I can confirm that he has a loss of extension at 15 degrees bilaterally. Getting dressed, the veteran keeps his knee flexed to a 30-degree point. This was measured. Veteran puts on his shoes standing.” The examiner stated “The veteran refused to do exercise so that repetitive motion could be tested. However, he does walk with a slow gait, as mentioned above, and he goes down the hall with a reasonable speed.” Left knee magnetic resonance imaging (MRI) from the TDRL period, showed a small amount of edema.

The VA C&P performed 11 months after separation indicated extreme pain and is summarized in the chart above. The examiner stated “I am unable to explain the veteran's extreme display of pain in the knees, which did not correlate with any specific movement of the knees. The only other explanation would be a conversion reaction. I have asked the veteran's primary Care Physician to follow up with this.”

The Board directs attention to its rating recommendation based on the above evidence. The PEB combined both knees into a single unfitting and rated condition, IAW the USAPDA pain policy, analogously to 5003. IAW VASRD-only rating, the Board must apply separate codes and ratings in its recommendations, if compensable ratings for each knee are achieved IAW VASRD §4.71a. The Board adjudged that each knee was unfitting and ratable. All exams proximate to TDRL justified a 10% rating for each knee. Coding at a combined 20% IAW VASRD 5003 would require "occasional incapacitating exacerbations" which were not in evidence, or equivalency of narcotic pain medication use to incapacitating exacerbations which is less clear than separate 10% ratings for painful or pain-limited motion of each knee. On exit from TDRL for permanent separation, the Board considered the single VA exam documenting significant limited extension had a lower as having a lower probative value than the remainder of the exams and the entirety of the record. After due deliberation, considering all of the evidence and mindful of VASRD §4.3 (reasonable doubt), the Board recommends a disability rating of 10% for the left knee condition and 10% for the right knee condition for entry into TDRL, and exit from TDRL (permanent separation).

Right Ilioinguinal Nerve Pain Condition. The pre-TDRL NARSUM indicated the CI had an emergency appendectomy while deployed to Iraq and developed severe right lower abdominal pain with radiation to the right groin. Injections were only temporarily effective; there was no pathology on MRI. The CI was on narcotic pain medication and Neurontin (for nerve pain). Exam noted slight tenderness of the well healed appendectomy scar. The CI “was exquisitely tender on palpation about two inches below the scar and an area about the size of one inch in diameter” with referred pain down towards the groin and testicle. There were no hernias “or demonstrable neurosensory changes in the abdominal wall other than the tenderness to palpation. No pathological reflexes were noted.” The examiner stated “unfortunately, nothing seems to be giving him any significant relief of the abdominal wall pain and he is severely incapacitated from performing his Army duties.”

The VA exam two months into the TDRL period documented a diffuse right lower quadrant subjective decrease in pin prick and right lower extremity. The examiner stated “the sensory loss in the right lower quadrant and RLE (right lower extremity) go way beyond the ilioinguinal nerve distribution. While this may happen in neuropathic pain syndrome, the other hallmarks of such syndromes (hyperpathia and allodynia) are absent. The sensory loss also conforms to neither peripheral nerve nor dermatomal distribution. I find no neurologic deficits related to lumbar spine disease.” Following MRI with L5-S1 disc bulge and bilateral foraminal narrowing, the examiner stated: Subjective complaints and findings of sensory loss in the right lower quadrant and RLE without objective evidence of corresponding lumbar spine disease.

The NARSUM exam indicated an EMG (electromyography) study demonstrating a right obturator neuropathy (electrophysiological study [NCVS/EMG] of 27 September 2006 report stated “impression: EMG findings are consistent with a chronic, partial focal right obturator neuropathy”). The CI complained of pain and tingling numbness with frequent radiation to the groin and right leg with worsening pain on prolonged sitting, standing or walking. A TENS (transcutaneous electrical nerve stimulation) unit provided only minor relief. The examiner stated “neurologic examination reveals diminished sensation in the medial aspect of right leg, along obturator nerve distribution, there are no motor deficits. Interval EMG study continues to show a chronic partial right obturator neuropathy, with mild reduction in motor recruitment of adductor muscles.”

VA exams proximate to TDRL exit demonstrated non tender abdomen without hernias on genitourinary exam, and on peripheral nerve exam a non-tender scar with pain on deep palpation, but no skin changes or muscle wasting.

The Board directs attention to its rating recommendation based on the above evidence. The evidence indicated a neuropathy of the ilioinguinal or obturator nerve (service exam versus VA exam) that was sensory in nature with pain as the predominate component. There were no organic changes documented by any examiners. IAW VASRD §4.123 (neuritis), the maximum rating which may be assigned for neuritis not characterized by organic changes is for moderate, while IAW VASRD §4.124 (neuralgia) the maximum is also equal to moderate incomplete paralysis. For either the ilioinguinal or obturator nerves a moderate incomplete paralysis is a rating of 0%. Although the evidence supported a 0% rating IAW VASRD-only criteria, for entry into TDRL, application of the pain policy and the caveat that Board’s recommendations may not produce a lower combined rating than that of the PEB, the Board recommends no change in the TDRL-entry 10% rating.

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 initial PEB adjudication for entry into TDRL or the final FPEB adjudication for the ilioinguinal nerve condition on permanent separation.

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, IPEB reliance on the USAPDA pain policy for rating the bilateral knee pain condition was operant in this case and the condition was adjudicated independently of that policy by the Board. The IPEB use of the pain policy was also likely, and was discussed in the analysis section above. In the matter of the chronic bilateral knee pain condition, the Board unanimously recommends that it be rated for two separate unfitting conditions as follows: left knee condition coded 5010-5014 and rated 10% and right knee condition coded 5010-5014 and rated 10%; both IAW VASRD §4.71a. In the matter of the right ilioinguinal nerve condition and IAW VASRD §4.124a, the Board unanimously recommends no change in the FPEB adjudication. 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 his prior medical separation:

|  |  |  |
| --- | --- | --- |
| **UNFITTING CONDITION** | **VASRD CODE** | **RATING** |
| **TDRL** | **PERMANENT** |
| Chronic Bilateral Knee Pain | Left | 5010-5014 | 10% | 10% |
| Right | 5010-5014 | 10% | 10% |
| Right Ilioinguinal Nerve Pain | 8799-8730 | 10% | 0% |
| **COMBINED (w/BLF)** | **30%** | **20%** |

The following documentary evidence was considered:

Exhibit A. DD Form 294, dated 20111018, w/atchs

Exhibit B. Service Treatment Record

Exhibit C. Department of Veterans’ Affairs Treatment Record

 XXXXXXXXXXXXXXX

 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 22202-3557

SUBJECT: Department of Defense Physical Disability Board of Review Recommendation

for XXXXXXXXXXXXXXXXXXXXXX, AR20120018617 (PD201100938)

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 XXXXXXXXXXXXXXXXX

 Deputy Assistant Secretary

 (Army Review Boards)

CF:

( ) DoD PDBR

( ) DVA