RECORD OF PROCEEDINGS

PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXXXXXX BRANCH OF SERVICE: Army

CASE NUMBER: PD1100987 SEPARATION DATE: 20030220

BOARD DATE: 20120706

SUMMARY OF CASE: Data extracted from the available evidence of record reflects that this covered individual (CI) was an active duty SPC/E-4 (55B, Ammo Specialist) medically separated for chronic right shoulder pain. He was treated, but did not respond adequately to fully perform his military duties or meet physical fitness standards. He was issued a permanent profile and underwent a Medical Evaluation Board (MEB). Right shoulder pain was forwarded to the Physical Evaluation Board (PEB) as medically unacceptable IAW AR 40-501. No other conditions appeared on the MEB’s submission. The PEB found the right shoulder condition unfitting, and rated it 10% IAW the US Army Physical Disability Agency (USAPDA) pain policy. The CI made no appeals, and was thus medically separated with a 10% disability rating.

CI CONTENTION: “The rating did not take in account my limited range of motion or that I can move my shoulder. The code should be more like 5201, I can not move my shoulder more than 80 degrees straight up. The code I was given for arthritis does not take into account the lack of motion. Also I was on narcotic pain killers for years after discharge.”

SCOPE OF REVIEW: The Board’s scope of review, as defined in DoDI 6040.44, is limited to those conditions which were determined by the PEB to be unfitting for continued military service; or, when requested by the CI, those conditions identified but not determined to be unfitting by the PEB. In this case, the right shoulder condition (shoulder pain, with decreased range-of-motion (ROM)) meets the criteria prescribed in DoDI 6040.44 for Board purview, and is addressed below. Any other conditions are outside the Board’s scope of review, but may be eligible for future consideration by the Army Board for the Correction of Military Records (ABCMR).

RATING COMPARISON:

|  |  |
| --- | --- |
| **Army PEB – dated 20021126** | **VA (3 days Post-Separation) – All Effective 20030221** |
| **Condition** | **Code** | **Rating** | **Condition** | **Code** | **Rating** | **Exam** |
| Right Shoulder Pain | 5099-5003 | 10% | Chronic Right Shoulder Strain | 5299-5201 | 20% | 20021015 |
| ↓No Additional MEB/PEB Entries↓ |  |  |
| **Combined: 10%** | **Combined: 20%** |

ANALYSIS SUMMARY:

Right Shoulder Condition. In September 2000, the CI reported right shoulder pain after performing push-ups. He received several months of physical therapy (PT) without significant improvement. Magnetic resonance imaging (MRI) in July 2001 showed a possible labral tear. In November 2001, he had right shoulder arthroscopy which was essentially unremarkable. He then underwent electrothermal assisted capsulorrhaphy (ETAC). Despite his treatment, the right shoulder problems persisted, and an MEB was initiated.

At his November 2002 MEB orthopedic evaluation, 16 weeks prior to separation, the CI reported right shoulder pain and decreased ROM. On exam, there was no significant muscle atrophy around the right shoulder girdle. He had well healed surgical scars consistent with his history of arthroscopy. Muscle strength testing was somewhat limited by pain, but was generally normal. All provocative tests on the right shoulder were mildly positive and painful, but there was no evidence of laxity. Three goniometric ROM evaluations were weighed by the Board in arriving at its recommendation, and are summarized below.

|  |  |  |  |
| --- | --- | --- | --- |
| Goniometric ROM Right Shoulder | PT – 24 wks. Pre-Sep(20020905) | C&P – 19 wks. Pre-Sep(20021015) | MEB – 16 wks. Pre-Sep(20021105) |
| Flexion (180⁰ is normal) | 90⁰ | 90⁰ | 100⁰ |
| Abduction (180⁰ is normal) | 90⁰ | 90⁰ | 80⁰ |
| §4.71a Rating | 20% | 20% | 20% |

The Board carefully examined all evidentiary information available. The Army PEB and the Department of Veterans’ Affairs (DVA) used different coding options for the right shoulder condition, and assigned different rating percentages. The CI’s right shoulder ROM was clearly decreased. At his November 2002 MEB exam, he forward flexed his right arm to 100 degrees (slightly above shoulder level) and he could abduct to 80 degrees (which is close to shoulder level). IAW the Veterans’ Administration Schedule for Rating Disabilities (VASRD), arm motion that is limited to shoulder level warrants a disability rating of 20% under diagnostic code 5201. For a higher rating, there would need to be greater limitation of motion, to midway between the side and shoulder level (45 degrees). The Board thoroughly reviewed the record and could not find sufficient evidence to support a shoulder disability rating greater than 20%. After due deliberation, and mindful of VASRD §4.3 (Reasonable doubt), the Board unanimously recommends a rating of 20% for the right shoulder condition. It is appropriately coded 5201, and meets VASRD criteria for the 20% rating level.

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. In the matter of the right shoulder condition, the Board unanimously recommends a rating of 20%, IAW VASRD §4.71a.

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** |
| Chronic Right Shoulder Condition | 5201 | 20% |
| **COMBINED** | **20%** |

The following documentary evidence was considered:

Exhibit A. DD Form 294, dated 20111021, w/atchs

Exhibit B. Service Treatment Record

Exhibit C. Department of Veterans’ Affairs Treatment Record

 XXXXXXXXXX

 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 XXXXXXXXXXXXXXXXX, AR20120012296 (PD201100987)

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 XXXXXXXXXXXXXXXXXXX

 Deputy Assistant Secretary

 (Army Review Boards)

CF:

( ) DoD PDBR

( ) DVA