RECORD OF PROCEEDINGS

PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXXXXXXXXXX BRANCH OF SERVICE: Army

CASE NUMBER: PD1101017 SEPARATION DATE: 20080510

BOARD DATE: 20120718

SUMMARY OF CASE: Data extracted from the available evidence of record reflects that this covered individual (CI) was an active duty SGT/E-5 (92A, Automated Logistics Specialist), medically separated for degenerative arthritis of both hips*.* The condition began in approximately 2005 and was not a consequence of injury. The CI did not improve adequately with conservative and surgical treatment to meet the 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 bilateral hip femoral acetabular impingement, mild, to the Physical Evaluation Board (PEB) as medically unacceptable IAW AR 40-501. No other conditions were forwarded for PEB adjudication. The PEB adjudicated the degenerative arthritis of both hips condition as unfitting, rated 20%, with application of the Veteran’s Affairs Schedule for Rating Disabilities (VASRD). The CI made no appeals, and was medically separated with a 20% disability rating.

CI CONTENTION: The CI elaborated no specific contention in his application.

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. 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 IPEB – Dated 20080211** | **VA (5 Mo. After Separation) – All Effective Date 20080511** |
| **Condition** | **Code** | **Rating** | **Condition** | **Code** | **Rating** | **Exam** |
| Bilateral Hip Arthritis | 5003 | 10% | Osteoarthritis, Right Hip | 5010 | 10% | 20081015 |
| 10% | Osteoarthritis, Left Hip | 5010 | 10% | 20081015 |
| ↓No Additional MEB/PEB Entries↓ | Not Service Connected x 3  | 20081015 |
| **Combined: 20%** | **Combined: 20%** |

ANALYSIS SUMMARY:

Bilateral Hip Degenerative Arthritis Condition. The narrative summary (NARSUM) notes that the left hip arthroscopy, performed on 18 August 2006; and right hip arthroscopy, performed on 3 April 2007; resulted in improvement in his hip pain, but not sufficiently to continue in his MOS. He was unable to complete any portion of the physical fitness test. The CI noted on his MEB physical that he was limited to standing and sitting for 15 minutes, and he had trouble sleeping due to difficulty getting comfortable. There were two 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 chart below.

|  |  |  |
| --- | --- | --- |
| Hip (Thigh) ROM | PT ~4 Mo. Pre-Sep | VA C&P ~5 Mo. Post-Sep |
| Right | Left | Right | Left |
| Flexion (0-125⁰) | 90⁰ (90⁰, 110⁰, 115⁰) | 105⁰ (105⁰, 110⁰, 110⁰) | 125⁰ | 125⁰ |
| Extension (0-20⁰) | 20⁰ (35⁰, 35⁰, 35⁰) | 20⁰ (35⁰, 35⁰, 35⁰) | 20⁰ (30⁰) | 20⁰ (30⁰) |
| External Rotation (0-45⁰) | Toes out > 15⁰ | Toes out > 15⁰ | 45⁰ (60⁰) | 45⁰ (60⁰) |
| Abduction (0-45⁰) | 40⁰ (38⁰, 40⁰, 41⁰) | 40⁰ (40⁰, 42⁰, 45⁰) | 45⁰ | 45⁰ |
| Adduction (0-45⁰) | Able to cross legs | Able to cross legs | 25⁰ | 25⁰ |
| Comment | Painful motion | Painful motion | Additionally limited by pain after repetition\* | Additionally limited by pain after repetition\* |
| §4.71a Rating | 10% | 10% | 10% | 10% |

 \*Pain increased after repetition without any additional limitation in degree of motion

The NARSUM examiner on 19 January 2008, four months prior to separation, noted tenderness over the trochanters, pain with flexion and internal rotation, and mild (4/5) weakness of hip flexion. Pain during hip flexion began at 30⁰. X-rays showed mild osteoarthritis. At the Department of Veterans’ Affairs (DVA) Compensation and Pension (C&P) exam on 15 October 2008, five months after separation, the CI reported bilateral hip pain that could be elicited by physical activity and relieved by rest and ibuprofen. When pain occurred, he could still function with use of medication, but his pain limited his ability to exercise or lift, and interfered with his sleep. He was able to vacuum, drive a car, climb stairs, walk, perform gardening activities and push a lawn mower. He also reported swelling, lack of endurance and popping, but denied weakness, stiffness, giving way, locking or dislocation. Examination showed a normal gait with no use of assistive devices for ambulation. Neither hip showed signs of effusion, tenderness or subluxation. Muscle strength was normal.

The Board directs attention to its rating recommendation based on the above evidence. A compensable limitation of motion was not present on either exam (VASRD codes 5251, 5252, and 5253). The PEB coded the condition 5003 (arthritis, degenerative) and assigned its 10% rating for each hip IAW §4.71a standards. The VA likewise gave a 10% rating for each hip for painful repetitive motion. The Board considered other coding options but could find no pathway to a rating higher than 10%. After due deliberation in consideration of the preponderance of the evidence, the Board concluded that there was insufficient cause to recommend a change in the PEB fitness determination for the bilateral hip arthritis 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 bilateral hip arthritis condition and IAW VASRD §4.71a, 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** |
| Bilateral Hip Degenerative Arthritis | Right | 5003 | 10% |
| Left | 5003 | 10% |
| **COMBINED (w/ BLF)** | **20%** |

The following documentary evidence was considered:

Exhibit A. DD Form 294, dated 20111031, w/atchs

Exhibit B. Service Treatment Record

Exhibit C. Department of Veterans’ Affairs Treatment Record

 XXXXXXXXXXXXXXXXXXXXXXX

 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 XXXXXXXXXXXXXXXXXXXXXX, AR20120013624 (PD201101017)

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 XXXXXXXXXXXXXXXX

 Deputy Assistant Secretary

 (Army Review Boards)

CF:

( ) DoD PDBR

( ) DVA