RECORD OF PROCEEDINGS

PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXXXXXXXXXXXXX BRANCH OF SERVICE: Army

CASE NUMBER: PD1101046 SEPARATION DATE: 20040922

BOARD DATE: 20121011

SUMMARY OF CASE: Data extracted from the available evidence of record reflects that this covered individual (CI) was a Reserve (AGR) SFC/E-7 (76R/Recruiter), medically separated for rheumatoid arthritis. The condition was diagnosed in 2000 and required anti-rheumatologic medication managed by a specialist. The CI did not improve adequately with treatment to meet the physical requirements of her Military Occupational Specialty (MOS) or satisfy physical fitness standards. She was issued a permanent P3 profile and referred for a Medical Evaluation Board (MEB). The MEB forwarded rheumatoid arthritis to the Physical Evaluation Board (PEB) as medically unacceptable IAW AR 40-501. Two conditions, identified in the rating chart below, were also identified and forwarded by the MEB. The PEB adjudicated the rheumatoid arthritis condition as unfitting, rated 20% with application of the Veteran’s Affairs Schedule for Rating Disabilities (VASRD). The remaining conditions were determined to be not unfitting. The CI made no appeals, and was medically separated with a 20% disability rating.

CI CONTENTION: “I was told I was non-deployable due to having RA. I could not even go from the AGR back to the Reserves, I believe this should have qualified me for an active duty medical retirement.”

SCOPE OF REVIEW: The Board wishes to clarify that the scope of its review as defined in the Department of Defense Instruction (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 rheumatoid arthritis condition, as requested for consideration, meets the criteria prescribed in DoDI 6040.44 for Board purview; and, is 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.

RATING COMPARISON:

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Service IPEB – Dated 20040524** | | | **VA (12 Mo. After Separation) – All Effective Date 20040923** | | | |
| **Condition** | **Code** | **Rating** | **Condition** | **Code** | **Rating** | **Exam** |
| Rheumatoid Arthritis | 5002 | 20% | Rheumatoid Arthritis | 5002-5229 | 10% | 20051025 |
| Bilateral Knee Pain | Not Unfitting | | Right Knee Condition | 5257 | 10% | 20051025 |
| Left Knee Condition | NSC | | 20051025 |
| Depression | Not Unfitting | | Depression | 9413 | 10% | 20050929 |
| ↓No Additional MEB/PEB Entries↓ | | | Lumbar Strain | 5237 | 10% | 20051025 |
| Sinusitis | 6512 | 10% | 20051025 |
| Left Carpal Tunnel Syndrome | 8512 | 10% | 20051025 |
| Temporomandibular Joint Disorder | 9905 | 10% | 20051025 |
| 0% x 4/Not Service Connected x 6 | | | 20051025 |
| **Combined: 20%** | | | **Combined: 50%** | | | |

ANALYSIS SUMMARY:

Rheumatoid Arthritis Condition. A summary by her rheumatologist performed on 28 January 2004, 8 months prior to separation, indicated the CI had experienced a waxing and waning course over the prior 2 years requiring intermittent use of steroids and anti-rheumatologic medications. Although early in the disease course the hands, wrists, ankles and feet were affected, symptoms were ultimately limited primarily to the joints of the hands. Joint swelling was reasonably well controlled. Fatigue was her main limitation and this was thought to be due in part to her work schedule. An examination indicated that synovitis (joint inflammation) was absent. The CI’s most recent annual performance report noted that she earned a recruiting badge during the rating period; the rater considered her “among the best.” The MEB physical examination 6 months prior to separation noted tenderness of three metacarpophalangeal joints (knuckles) of the left hand and two joints of the right hand. The narrative summary (NARSUM) dictated 5 months prior to separation noted that the CI’s continuous joint pain and chronic fatigue limited her performance as a soldier. Several anti-rheumatologic medications were helpful, but her condition prevented her from working more than 48 hours per week. Examination revealed mild tenderness in the metacarpophalangeal joints bilaterally, particularly at the index finger, but range-of-motion (ROM) was full with minimal discomfort. Recent laboratory evaluation revealed no evidence of anemia, and an erythrocyte sedimentation rate was 10 (ESR – a measure of generalized inflammation; normal 0 – 15). The CI’s weight at this exam was 144 pounds. A review of the clinical record shows a weight of 144 pounds 2 years prior to separation; a pre-separation weigh-in performed on 16 September 2004 was 146 pounds. The examiner concluded: “Although she is capable of performing her duties within her MOS, she cannot participate sufficiently in field training and is non-deployable, her overall performance of duty as a soldier in the Army is severely restricted.” At the C&P exam 13 months after separation, the CI reported that two medications had kept her arthritis pain under control during the preceding year, but that right hand pain could affect her typing in her work as a guidance counselor. Examination revealed swelling and mild tenderness of one metacarpophalangeal joint of the right hand. ROM of the fingers and hands was normal. Weight was 141 pounds. Gait was normal.

The Board directs attention to its rating recommendation based on the above evidence. The rheumatoid arthritis condition was designated as existing prior to service (EPTS) by the PEB, but no deduction was applied. Under the 5002 code used by the PEB, the rating is based on the number of incapacitating disease exacerbations and overall impairment of health. The PEB’s 20% rating reflected an assessment that the CI’s condition was most accurately reflected by “one or two exacerbations a year.” The VA used a 5002-5229 code (5229 – limitation of motion, index finger) and assigned a 10% rating based on non-compensable limitation of joint motion. The Board agreed that the PEB’s coding approach was appropriate, and considered the severity of the CI’s condition based on the evidence at hand. All members agreed that the 60% criteria were not approached (“…with weight loss and anemia productive of severe impairment of health or severely incapacitating exacerbations occurring 4 or more times a year or a lesser number over prolonged periods”), and that “incapacitating exacerbations occurring 3 or more times a year” (supportive of the next higher 40% rating) were not in evidence. Although restricted from working the considerable number of hours required of her MOS, she was still working 48 hours per week and performing at a high level; furthermore, physical examination findings at the time of separation were minimal. The Board therefore concluded the CI’s condition did not result in “definite impairment that was objectively supported by examination findings” that would also support a 40% 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 PEB adjudication for the rheumatoid 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 rheumatoid 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** |
| Rheumatoid Arthritis | 5002 | 20% |
| **COMBINED** | **20%** |

The following documentary evidence was considered:

Exhibit A. DD Form 294, dated 20111105, 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 22202-3557

SUBJECT: Department of Defense Physical Disability Board of Review Recommendation for XXXXXXXXXXXXXXXXXXXXX, AR20120019916 (PD201101046)

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 XXXXXXXXXXXXXXXXXXXXXXX

Deputy Assistant Secretary

(Army Review Boards)

CF:

( ) DoD PDBR

( ) DVA