

RECORD OF PROCEEDINGS
PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXXXXXXXXXXXXXXXXXXXX
CASE NUMBER: PD1101079
BOARD DATE: 20120921

BRANCH OF SERVICE: ARMY
SEPARATION DATE: 20040519

SUMMARY OF CASE: Data extracted from the available evidence of record reflects that this covered individual (CI) was an active duty SPC/E-4 (31B, Military Police) medically separated for a bilateral foot condition. She experienced an onset of bilateral foot pain in 2001, which persisted and worsened throughout her remaining years of service. She underwent extensive ancillary and specialty evaluations without a definitive diagnosis. The condition could not 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 bilateral foot condition, characterized as “bilateral foot pain and hyperesthesia – unknown etiology,” was forwarded to the Physical Evaluation Board (PEB) as medically unacceptable IAW AR 40-501. No other conditions were submitted by the MEB. The PEB adjudicated the bilateral foot condition as unfitting, rated 10% analogously to code 5003 (degenerative arthritis), citing criteria of the US Army Physical Disability Agency (USAPDA) pain policy. The CI made no appeals, and was medically separated with that disability rating.

CI CONTENTION: The application states “I was medically discharged and denied an opportunity to reclassify. My Tarsal Tunnel Syndrome was also denied a disability rating and that was why I was discharged.” She does not elaborate further or specify a 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 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 rating for the unfitting foot condition is addressed below; and, no additional conditions are within the DoDI 6040.44 defined purview of the Board. 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 (ABCMR).

RATING COMPARISON:

Service PEB – Dated 20040115			VA (2 Mo. Pre-Separation) –Effective 20040520			
Condition	Code	Rating	Condition	Code	Rating	Exam
Bilateral Foot Pain and Hyperesthesia	5099-5003	0%	Tarsal Tunnel Syndrome, L Foot	8599-8525	0%	20040305
			Tarsal Tunnel Syndrome, R Foot	8599-8525	0%	20040305
No Additional MEB/PEB Entries.			Gastroesophageal Reflux Disease	7399-7346	10%	20040305
			Impingement Syndrome, R Shoulder	5299-5203	0%	20040305

	Not Service Connected x 3	20040305
Combined: 0%	Combined: 10%	

ANALYSIS SUMMARY: The Board acknowledges the CI's grievance that she was not given the opportunity to reclassify into an alternate MOS and continue her service. It is noted for the record that the Board has neither the jurisdiction nor authority to scrutinize, render opinions, or offer remedy in reference to Service decisions of this nature. That jurisdiction and authority resides with the ABCMR. IAW DoDI 6040.44, the Board's authority is limited to making recommendations on correcting disability determinations. The Board's role is thus confined to the review of medical records and all evidence at hand to assess the fairness of PEB rating determinations, compared to VASRD standards, based on severity at the time of separation.

Bilateral Foot Condition. There was no antecedent injury for the CI's November 2001 onset of bilateral foot pain, and she first sought medical care for worsening symptoms in February 2002. She was managed conservatively with temporary profiles until a May 2002 deployment to Afghanistan. Her symptoms worsened with the rigors of the deployment, and she required medical evacuation after 3 months. Upon redeployment she underwent extensive evaluation; which included consults with neurology, podiatry, and physical/occupational medicine. Those evaluations document a symptom complex of bilateral stocking pattern pain with exquisite sensitivity to touch and pressure, and an inability to tolerate regulation footwear or engage prolonged walking or standing. The work-up included negative imaging and numerous nerve studies which failed to demonstrate definitive peripheral nerve impairment; although, a late MEB study (November 2003) did show "EDX [electrodiagnostic] evidence of a right sided lateral plantar neuropathy." It was felt, however, that this finding did not fully account for the bilateral stocking pattern of pain. Relevant to her contention, the CI was referred to a MOS Medical Review Board (MMRB) which recommended an MEB rather than reclassification. The narrative summary (NARSUM) noted constant bilateral foot pain rated 5/10, "worsening to 10/10 with any weightbearing and wearing any type of footwear." The physical examination noted diffuse bilateral tenderness "from the calcaneus [heel] distally to the toes, worsening distally. Sensation was intact and painful. Bilateral dorsiflexion and plantarflexion strength was 5/5. She did have pain to contact for resisted movement of strength testing." The VA Compensation and Pension (C&P) evaluation (2 months prior to separation) noted "pain, swelling and fatigue" at rest, with the addition of "weakness" to those symptoms "while standing or walking." The VA examiner noted that the CI had been desk bound due to her condition, but had lost no time from work. The VA physical examination was cursory, noting bilateral tenderness without further elaboration (absence of pes planus was confirmed). Gait was normal, as were bilateral ankle range-of-motion (ROM) measurements.

The Board directs attention to its rating recommendation based on the above evidence. The Board first considered if a combined bilateral rating, as per the PEB approach, was appropriate and the most favorable rating IAW VASRD §4.7 (higher of two evaluations). Bilateral rating analogous to 5003 also poses conflict with the VASRD, since there were no confirmatory X-ray findings nor is arthritis an accurate clinical descriptor for the pathology in evidence. None of the bilateral foot rating options IAW VASRD §4.71a (pes planus, claw foot, metatarsalgia) are clinically applicable; with the possible exception of an analogous rating under 5277 (weak foot) yielding a bilateral rating of 10%. In consideration of separate ratings in lieu of PEB combined ratings, the Board must also consider separate fitness assessments which justify each disability rating. It is clear, however, that the symptoms and limitations described above would have rendered the CI unable to meet the demands of her MOS even if confined to a single foot. Members concurred therefore that each foot should be conceded as separately unfitting; and,

that coding and rating features were logically identical. The Board next considered the proper coding for separate rating. With the absence of any compensable ROM limitations or other orthopedic joint abnormality, there are no good analogous coding fits under §4.71a. The Board notes, however, that the disability in this case is a good analogous fit with peripheral nerve coding in alignment with the VA approach. Although in agreement with the MEB conclusion that no rigid clinical diagnosis of peripheral neuropathy (specifically tarsal tunnel syndrome) can be based on the ancillary findings, the action officer opines that the manifest symptoms are fairly akin to complex regional pain syndrome which is unequivocally rated as a neuropathy. The nerve code 8525 (posterior tibial) which the VA applied in conjunction with the VA examiner's working diagnosis of tarsal tunnel syndrome is the anatomically applicable code in this case for *analogous* rating as a neuropathy, although 8725 (posterior tibial neuralgia) is more clinically concordant. IAW VASRD §4.124 neuralgia may be rated no higher than 'moderate' nerve impairment; which for 8625 is 10% (10% is also the rating for 'mild' under 8625). Members considered application of 8625 (posterior tibial neuritis); which, IAW §4.123, may be rated as high as 'severe' nerve impairment (yielding a 20% rating under 8625); but, §4.123 defines neuritis as "characterized by loss of reflexes, muscle atrophy, sensory disturbances, and constant pain, at times excruciating." Although constant and occasionally excruciating pain was evidenced, there were no motor, sensory, or reflex abnormalities. Although the VA rater concluded that the severity in this case did not meet the compensable 'mild' threshold of 8525; all members agreed that at least 'mild', if not 'moderate', was a fair characterization of the disability in evidence. After due deliberation, considering all of the evidence and mindful of VASRD §4.3 (reasonable doubt), the Board recommends separate right and left disability ratings of 10% each for the bilateral foot 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. As discussed above, PEB reliance on the USAPDA pain policy for rating the foot condition was operant in this case and it was adjudicated independently of that policy by the Board. In the matter of the bilateral foot condition, the Board unanimously recommends that each foot be rated as separately unfitting at 10%, coded 8799-8725, IAW VASRD §4.124a. 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:

UNFITTING CONDITION	VASRD CODE	RATING
Chronic Pain and Neuralgia, Left Foot	8799-8725	10%
Chronic Pain and Neuralgia, Right Foot	8799-8725	10%
COMBINED (w/ BLF)		20%

The following documentary evidence was considered:

- Exhibit A. DD Form 294, dated 20111110, 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 XXXXXXXXXXXXXXXXXXXXXXXX, AR20120017711 (PD201101079)

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

XXXXXXXXXXXXXXXXXXXXXXXXXXXX
Deputy Assistant Secretary
(Army Review Boards)

CF:
() DoD PDBR
() DVA