RECORD OF PROCEEDINGS
PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXXXXXXXXXXXXXXXX
BRANCH OF SERVICE: ARMY
CASE NUMBER: PD1101128
SEPARATION DATE [ARNG]: 20080724
BOARD DATE: 20121023

SUMMARY OF CASE: Data extracted from the available evidence of record reflects that this covered individual (CI) was an Army National Guard (ARNG) PFC/E-3 (09B10/Basic Trainee), medically separated for chronic low back pain (LBP) and chronic left knee pain. The CI developed left knee pain while in basic training, documented as both secondary to the increase in physical activity as well as after falling. In May 2007, the CI sought care for LBP, which was present on wakening the day after a two-mile hike. Despite conservative treatment for both conditions, the CI was unable to perform within his Military Occupational Specialty (MOS) or meet physical fitness standards. Surgery was not warranted. He was issued a permanent L3 profile and underwent a Medical Evaluation Board (MEB). Left knee pain consistent with patellofemoral pain syndrome (PFPS) and LBP secondary to ruptured disc at L4-5 were forwarded to the Physical Evaluation Board (PEB) as medically unacceptable IAW AR 40-501. Plantar fasciitis, as identified in the rating chart below, was forwarded on the MEB submission as medically acceptable. The PEB adjudicated the chronic LBP and chronic left knee pain conditions as unfitting, each rated 10%, with probable application of the Veterans Administration Schedule for Rating Disabilities (VASRD). The plantar fasciitis condition was adjudicated to be not unfitting. The CI made no appeals, and was medically separated with a 20% combined disability rating.

CI CONTENTION: "Condition is permanent cannot be changed without surgery which could make condition worse. Condition currently requires almost daily medication for pain. Degeneration of spine cannot be stopped and is permanent." In the block 15 remarks section the CI also states "Orthodic devices for Knee and feet cause wear and tear in clothing such as pants and shoes. Service connected disabilities interfere with past history of physical activities and way of life affecting future of prior service member to be sustainable with existing permanent injuries."

SCOPE OF REVIEW: The Board's scope of review is defined in the Department of Defense Instruction (DoDI) 6040.44, Enclosure 3, paragraph 5.e.(2). It is limited to those conditions determined by the PEB to be unfitting for continued military service and those conditions identified but not determined to be unfitting by the PEB when specifically requested by the CI. The plantar fasciitis condition was determined to be within the Board's purview in addition to the unfitting left knee and back conditions. 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 20080422			VA (Exam 20080507) – All Effective Date 20080220*			
Condition	**Code**	**Rating**	**Condition**	**Code**	**Rating**	**Exam**
Chronic LBP	5237	10%	HNP L4-5 w/ Degenerative Changes & Radiculopathy	5243	40%**	20080507
Chronic Lt Knee Pain	5099-5003	10%	Lt Knee PFS	5299-5024	10%	20080507
Plantar Fasciitis	Not Unfitting		Rt Foot Plantar Fasciitis	5299-5276	10%	20080507
↓No Additional MEB/PEB Entries↓			0% x 0/Not Service Connected x 2			20080507
Combined: 20%			**Combined: 50%**			

* Effective date is the date of CI's application for VA benefits.**LLE radiculopathy at 10% added 20091105; back reduced to 20% effective 20100501

ANALYSIS SUMMARY: The Disability Evaluation System (DES) is responsible for maintaining a fit and vital fighting force. While the DES considers all of the member's medical conditions, compensation can only be offered for those medical conditions that cut short a member's career; and then, only to the degree of severity present at the time of final disposition. The DES has neither the role nor the authority to compensate members for anticipated future severity or potential complications of conditions resulting in medical separation nor for conditions determined to be service-connected by the Department of Veterans' Affairs (DVA), but not determined to be unfitting by the PEB. However, the DVA, operating under a different set of laws (Title 38, United States Code), is empowered to compensate all service-connected conditions and to periodically re-evaluate said conditions for the purpose of adjusting the Veteran's disability rating should the degree of impairment vary over time. The Board's role is 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.

Chronic Low Back Pain Condition. There were three goniometric range-of-motion (ROM) evaluations in evidence which the Board weighed in arriving at its rating recommendation, with documentation of additional ratable criteria, are summarized in the chart below.

Thoracolumbar ROM Degrees	MEB (20071228)	VA C&P (20080507)	VA C&P (20091105)
Flexion (90)	90	30	35
Combined (240)	240	135	145
Comment	No signs of pain behavior	No DeLuca. Normal neurological exam	
§4.71a Rating	10%	40%	20%

The CI was first seen for his LBP on 8 May 2007, 14 months prior to separation from the ARNG, reporting that he had awoken with LBP the day after a two-mile hike, 8 days earlier. At this time, he was already in the MEB process for his left knee, which had been initiated on 25 April 2007. He was noted to have tenderness of the sciatic notch and spasm of the lumbosacral muscles, but gait and stance were normal. His X-rays showed mild degenerative disc disease (DDD). He was given medications and released. He returned 3 days later with worsened symptoms and was placed on quarters for 72 hours. He was seen again 3 days after that appointment; his symptoms were improved, but persistent and he was again placed on quarters for 72 hours. There are no other entries in the records available for review indicating placement on quarters or bed rest for the LBP. Treatment included medications, physical therapy (PT) and chiropractic treatment. The ROM was reduced on the 30 July 2007 PT examination to about 30% of normal, but improved with treatment until it was measured as

normal on the MEB examination for the narrative summary dictated 28 December 2007 (below). A magnetic resonance imaging (MRI) performed on 1 August 2007 was remarkable for a large L4-5 paracentral disc protrusion with compression of the right anterior thecal sac which likely affected the right L5 and S1 nerve roots. Nerve conduction velocity (NCV) and electromyography (EMG) studies were accomplished on 17 September 2007. The EMG was suggestive of a mild right L5 root level lesion. On 29 October 2007, he was evaluated by orthopedics. On examination, his gait was normal and he was able to rise on his toes and heels demonstrating normal strength. Sensation, strength and reflexes were documented as normal. There was no scoliosis, straightening or atrophy of the spine. Muscle tone was normal (no spasm). Extension was 40 degrees and flexion brought his fingertips to four inches from the floor, which is essentially normal. No pain was reported at the extremes of flexion and extension. Surgery was not indicated. He was seen in family practice on 15 November 2007 and noted to have a normal gait. The examiner also documented the expectation that the CI would recover with time. He continued to have chiropractic treatment; the last chiropractic entry in the records is dated 13 December 2007. The narrative summary (NARSUM) was dictated 28 December 2007, 7 months prior to separation. The CI reported that the LBP began after a fall in November 2006; however, this is not the history documented in the initial visits for LBP in May 2007. The CI noted continued LBP, rated 5/10, exacerbated by heavy lifting or prolonged standing. He had tenderness of the right paraspinal region without spasm. Strength and reflexes were normal as was the ROM. The overall examination was recorded as "unremarkable", implying a normal gait and stance as well as absence of spasm. Between the MEB and VA exams, a family practice note, dated 13 February 2008, documented a normal gait. His major concern that visit was for a mild upper respiratory infection. It was also noted that he had pain of 4/10, but in the right hip. The note was silent for complaints related to the back. At the VA Compensation and Pension (C&P) exam performed on 7 May 2008, 2 months prior to separation, the CI reported that the LBP dated from a fall in November 2006 when another soldier fell upon him and that he was treated with Ibuprofen for back strain. The Board noted that the 2 December 2006 treatment note documents left lower extremity pain after a series of "Iron Mikes," an alternating forward lunge of the lower extremities, and that the note is silent for any complaint of back pain. He reported numbness and weakness of the right foot with radiation to the right thigh and leg. He also noted that his right foot would drag on occasion. He stated that he had not worked since February of 2007. He endorsed 14 days of physician ordered bed rest over the past year. On examination, he was noted to rise from the lobby chair using both hands and to have a pronounced right limp, but did not use any assistive device. The Board noted that the CI also reported pain in the right hip, left knee, and both feet. Sensation, strength and reflexes were normal. There was right lumbar spasm and tenderness. DeLuca criteria were absent. Imaging showed mild lumbar scoliosis to the right with degenerative changes of the facet joints at L4-5 and L5-S1. The ROM is above. There was a second VA C&P examination over one year after separation on 5 November 2009. This is outside the 12-month window normally utilized for evidence; however, there is a significant deterioration between the MEB and initial VA examination. On the second VA examination, the CI reported that his symptoms had worsened and that he had an antalgic gait. He endorsed 12-14 days of incapacitation and bed rest. He used a cane. There was no spasm, but there was paraspinal tenderness at L4-5 and minimal scoliosis. Strength and reflexes were normal. Sensation was reduced over the right anterior thigh, the dermatomal distribution for L2-L3. The Board directs attention to its rating recommendation based on the above evidence. The PEB rated the back condition at 10% and coded it 5237, lumbosacral strain. The VA rated the back at 40%, coded 5243, intervertebral disc syndrome, citing the ROM limitation noted on the VA C&P examination. The record shows that the CI had an essentially normal ROM on both the pre-separation orthopedic and the NARSUM examinations. The two VA examinations documented an antalgic gait and reduced ROM. The Board found no evidence in the records available for review which explained the deterioration between the MEB and two VA examinations. The CI attributed the increase in symptomatology to the discontinuation of the chiropractic treatments. However, a family practice note dated 13 February 2008, 2 months after the last

recorded chiropractic treatment, documented a normal gait without mention of LBP. The second VA examination documented that the strength was normal and spasm absent despite the history of worsened symptoms. The Board also noted the inconsistencies between the histories provided to the MEB and VA examiners and the entries in the service treatment record. The Board determined that the MEB examination was most consistent with the underlying pathology, expected improvement in symptoms as noted by the treating physicians and the remainder of the medical record and assigned it a higher probative value for the disability determination. 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 back condition.

Chronic Left Knee Pain Condition. There were two goniometric ROM evaluations in evidence which the Board weighed in arriving at its rating recommendation, with documentation of additional ratable criteria, are summarized in the chart below.

Left Knee ROM Degrees	MEB (20071228)	VA C&P (20080507)
Flexion (140 normal)	135	105
Extension (0)	0	0
Comment	Crepitus	Swelling, warmth and tenderness; pain and popping at 100-105
§4.71a Rating	10%	10%

The first entry in the medical record for the left knee pain was on 2 December 2006 when he was seen with the complaint of left lower extremity pain after multiple "Iron Mikes" during basic training and thought to have tendonitis. There were multiple visits for the left knee for the duration of basic training and also after he returned to home station. An MRI of the left knee performed on 12 April 2007 was normal. An orthopedic exam a week later performed on 20 April 2007 showed normal gait and stance, full ROM and stable ligaments. The last visit for the knee in the record was performed on 21 August 2007, 11 months prior to separation. The gait was antalgic, but there was no effusion or erythema. The MEB (NARSUM) was 28 December 2007, 7 months prior to separation. The examiner noted some crepitus, but with ROM essentially normal. A test for ligamentous instability was negative. At the VA C&P examination performed on 7 May 2008, the CI reported pain, stiffness, swelling and instability on a daily basis. He used a brace for his knee and was noted to have a right limp. On examination, he was found to have 1+ swelling and 2+ warmth and tenderness, but these findings were not further addressed or explained. Although the examination showed deterioration from the MEB examination, it did not support a higher rating than the PEB adjudicated. The Board directed attention to its rating recommendation based on the above evidence. The PEB and VA both rated the disability at 10%, coding it 5099-5003, analogous to degenerative arthritis, and 5299-5024, analogous to tenosynovitis, respectively. The Board considered other coding options, but none provided an advantage to the CI. 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 left knee condition.

Contended PEB Conditions. The contended conditions adjudicated as not unfitting by the PEB was plantar fasciitis. The Board's first charge with respect to this condition is an assessment of the appropriateness of the PEB's fitness adjudication. The Board's threshold for countering fitness determinations is higher than the VASRD §4.3 (reasonable doubt) standard used for its rating recommendations, but remains adherent to the DoDI 6040.44 "fair and equitable" standard. Plantar fasciitis was not profiled, implicated in the commander's statement and was not judged to fail retention standards. The last visit recorded for this condition was 24 April 2007, 14 months prior to separation. This condition was reviewed by the action officer and

considered by the Board. There was no evidence in the record that it significantly interfered with satisfactory duty performance. 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 plantar fasciitis condition and therefore no additional Service disability rating is recommended.

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 low back pain condition and IAW VASRD §4.71a, the Board unanimously recommends no change in the PEB adjudication. In the matter of the left knee pain condition and IAW VASRD §4.71a, the Board unanimously recommends no change in the PEB adjudication. In the matter of the contended plantar fasciitis condition, the Board unanimously recommends no change from the PEB determination as not unfitting. 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
Chronic Low Back Pain	5237	10%
Chronic Left Knee Pain	5099-5003	10%
Plantar Fasciitis	Not Unfitting	
	COMBINED	**20%**

The following documentary evidence was considered:

Exhibit A. DD Form 294, dated 20111205, w/atchs.
Exhibit B. Service Treatment Record.
Exhibit C. Department of Veterans' Affairs Treatment Record.

XXXXXXXXXXXXXXXXX
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, AR20120020016 (PD201101128)

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

XXXXXXXXXXXXXXXXXXXXX
Deputy Assistant Secretary
(Army Review Boards)

CF:
( ) DoD PDBR
( ) DVA