

RECORD OF PROCEEDINGS
PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXXXXXXXXX
CASE NUMBER: PD1200426
BOARD DATE: 20121116

BRANCH OF SERVICE: ARMY
SEPARATION DATE: 20081227

SUMMARY OF CASE: Data extracted from the available evidence of record reflects that this covered individual (CI) was an active duty SPC/E-4 (94F/Computer Detection Systems Repairer), medically separated for chronic low back pain (LBP). The CI was teaching combatants in July 2007 when he injured his back. He continued to have intermittent symptoms of back pain, numbness and tingling in his legs. His pain continued despite physical therapy and pain management. His LBP condition could not be adequately rehabilitated to meet the physical requirements of his Military Occupational Specialty (MOS) or satisfy physical fitness standards per commander's letter. He was issued a permanent L3 profile and referred for a Medical Evaluation Board (MEB). Lumbar spondylosis, bulging disc, cervical spondylosis and astigmatism conditions, were identified and forwarded by the MEB. The Physical Evaluation Board (PEB) adjudicated the chronic LBP condition with lumbar spondylosis, and bulging disc as unfitting, rated 10% 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 10% disability rating.

CI CONTENTION: "I am unable to work with my condition. Back injury with nerve damage. I suffer severe pain in lower back and rt hip. Numbness in right lower leg".

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. The Army rated condition chronic LBP is the only condition that meets the purview of the Board as prescribed in DoDI 6040.44 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 PEB – Dated 20081024			VA (8 Mos. Post-Separation) – All Effective Date 20081228			
Condition	Code	Rating	Condition	Code	Rating	Exam
Chronic Low Back Pain ...*	5299-5242	10%	Lumbar Spondylosis and Bulging Disc at L2-L3	5242	10%	20090824
			Right Lower Extremity Radiculitis	8729	0%	20090824
			Left Lower Extremity Radiculitis	8729	0%	20090824
			NO VA ENTRY			
Cervical Spondylosis	Not Unfitting		NO VA ENTRY			
Astigmatism	Not Unfitting		NO VA ENTRY			
↓ No Additional MEB/PEB Entries ↓			0% X 1 / Not Service-Connected x 1			20090824
Combined: 10%			Combined: 10%			

*Combines MEB Diagnoses #1 (Lumbar Spondylosis) and #2 (Bulging Disc [L2-L3]).

ANALYSIS SUMMARY:

Chronic Low Back Pain Condition. 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.

Thoracolumbar ROM	PT/NARSUM ~3 Mo. Pre-Sep	VA C&P ~8 Mo. Post-Sep
Flexion (90° Normal)	(80) 79°	80°
Ext (0-30)	10°	20°
R Lat Flex (0-30)	(15) 16°	30°
L Lat Flex 0-30)	15°	30°
R Rotation (0-30)	(30) 33°	30°
L Rotation (0-30)	(30) 29°	30°
Combined (240°)	180°	220°
Comment: (IAW Notes 2 and 4 for the spine)	Pain with motion; tender; - SLR; strength, reflexes, sensory normal; no change ROM on repetition (see text)	Pain with motion; tender; spasm; antalgic gait; no LOM on repetition
§4.71a Rating	10%	20% (VA 10%)

The CI was teaching combatants in 2007 when he injured his back. He experienced intermittent numbness and tingling in his legs that improved. During subsequent deployment, wearing body armor and standing guard increased both LBP and right leg pain. In February 2008 the CI had LBP and pain down the posterior aspect of both legs when lifting less than five pounds. He was evaluated and referred to specialists and imaging. Lumbar spine X-rays performed on 20 February 2008 showed no spondylolisthesis or spondylolysis. Magnetic resonance imaging (MRI) of the lumbar spine performed on 26 February 2008 showed a small circumferential disc bulge at L2-L3, without spinal canal narrowing or foraminal narrowing. Neurologist history 9 months prior to separation noted 2/10 back pain, worse with activity, without numbness, spasms, or tingling in legs, no weakness, no bowel or bladder incontinence, and no response to physical therapy. Neurologist exam showed no motor weakness or sensory loss in the lower extremities. Pain behavior was negative but there was palpable posterior tenderness without paravertebral spasm. The Neurologist's electromyogram (EMG) found mild left (not right sided symptoms per the CI contention) lumbar radiculopathy L5-S1. Three Orthopedic evaluations chronicled effective medication treatment, physical therapy failure, and ineffective pain clinic referral. The final orthopedic consultation noted normal lumbar spine appearance, ROM, no tenderness and no spasm, with normal gait and stance and recommended referral to the MEB.

In the MEB narrative summary (NARSUM) dictated 9 weeks prior to separation, the CI reported activity exacerbated back pain that interfered with sleep and was tolerable with medications. Extensive use, lifting objects, position changes or persisted positions, all caused pain. "Fatigue, weakness, lack of endurance and instability/in-coordination did not appear to be a problem separate from pain." The MEB physical exam noted a back mildly tender to palpation with no spasm or guarding. Strength, sensation, deep tendon reflexes, heel-, toe-, and tandem walk were normal. Straight leg raising was negative and no Waddell's signs were noted. The ROMs and exam are summarized above.

At the VA Compensation and Pension (C&P) exam performed 8 months after separation, the CI reported constant daily mild-moderate LBP with stiffness, moderate-severe pain, flair-ups several times a week associated with overexertion, prolonged standing or walking or jarring activities. He stated during flare-ups he has pain that "radiates to left hip or to R hip & R upper thigh." The C&P exam showed spine ROM summarized above, with tenderness and spasms of lumbar paraspinal muscles, without straight leg raising, and no painful motions nor additional loss of ROM with repetitions. Antalgic gait was noted.

The Board directs attention to its rating recommendation based on the above evidence. The PEB rated chronic LBP with disability at 10%, coded 5299-5242, analogous to degenerative arthritis of the spine, IAW VASRD 4.71a. The Veterans Administration Rating Decision (VARD) rated 10% disability for lumbar spondylosis and bulging disc at L2-L3 under code 5242, degenerative arthritis of the spine and the rating narrative did not mention the abnormal gait and spasm noted in the C&P exam.

The Board deliberated on the timing, details, and overall probative value of the above exams and adjudged that the NARSUM exam had the highest probative value for rating at separation. There was not sufficient evidence of incapacitating episodes to support higher rating under 5243 Rating Intervertebral Disc Syndrome Based on Incapacitating Episodes or under functional loss. 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 chronic LBP 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 low back 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
Chronic Low Back Pain Condition	5299-5242	10%
	COMBINED	10%

The following documentary evidence was considered:

- Exhibit A. DD Form 294, dated 20120510, w/atchs
- Exhibit B. Service Treatment Record
- Exhibit C. Department of Veterans’ Affairs Treatment Record

XXXXXXXXXXXXXXXX, DAF
 President
 Physical Disability Board of Review

SFMR-RB

MEMORANDUM FOR Commander, US Army Physical Disability Agency
(TAPD-ZB / XXXXXXXX), 2900 Crystal Drive, Suite 300, Arlington, VA 22202-3557

SUBJECT: Department of Defense Physical Disability Board of Review Recommendation for
XXXXXXXXXXXXXXXXXX, AR20120022696 (PD201200426)

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

XXXXXXXXXXXX
Deputy Assistant Secretary
(Army Review Boards)

CF:
 DoD PDBR
 DVA