

RECORD OF PROCEEDINGS
PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXXXXXXXX
CASE NUMBER: PD1200510
BOARD DATE: 20121206

BRANCH OF SERVICE: ARMY
SEPARATION DATE: 200210531

SUMMARY OF CASE: Data extracted from the available evidence of record reflects that this covered individual (CI) was an active duty SPC/E-4 (95B10/Military Police), medically separated for a low back condition and pelvic pain condition. The CI did not improve adequately with an invasive spine procedure for the low back condition or surgical treatment for the pelvic pain condition and was unable to perform within her Military Occupational Specialty (MOS), meet worldwide deployment standards or physical fitness standards. She was issued a permanent P3/L3 profile and referred for a Medical Evaluation Board (MEB). Low back pain, status post (s/p) intradiscal electrothermal therapy and severe pelvic adhesive disease were forwarded to the Physical Evaluation Board (PEB) IAW AR 40-501. Three other conditions, as identified in the rating chart below, were also forwarded on the MEB submission. The PEB adjudicated chronic low back pain s/p intradiscal electrothermal therapy and pelvic adhesive disease without documented partial obstruction, as unfitting, rated 10% and 10%, with application of the Department of Defense Instruction (DoDI) 1332.39 and AR 635-40. The remaining MEB conditions were determined to be not unfitting. The CI made no appeals and was medically separated with a combined 20% disability rating.

CI CONTENTION: "Decision was made without complete assessment."

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 low back and pelvic pain conditions meet the criteria prescribed in DoDI 6040.44 for Board purview; and, are addressed below. The Board agreed the CI's contention did not identify the remaining PEB or VA conditions and therefore agreed these contentions were not specifically requested in the application. However, any condition or contention not requested in the 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 20020412			VA (~4-5 Mos. Post-Separation) – All Effective Date 20020601			
Condition	Code	Rating	Condition	Code	Rating	Exam
Chronic LBP	5299-5295	10%	DDD of L4-L5	5292	10%	20021024
Pelvic Adhesive Disease	7301	10%	Pelvic Adhesive Disease...	7613-7617	50%	20021101
Horner's Syndrome	Not Unfitting		Horner's Syndrome, R Eye	6019	0%	20021102
Granular Cell Tumor	Not Unfitting		Scar, ...Removal Granular Cell Tumor, R Lung from R Chest	7804	10%	20021028
			Residuals Removal Granular Cell Tumor, R Lung w/Shortness Breath	6820-6844	10%	20021028
			Residuals Removal Granular Cell Tumor, R Lung w/Limited Mobility R Upper Extremity	6844-5203	10%	20021028
Common Migraine	Not Unfitting		Migraine Headaches	8100	10%	20021024
No Additional MEB/PEB Entries			PTSD	9411	30%	20021102
			Hypertension	7101	10%	20021024
			Not Service-Connected x 2			
Combined: 20%			Combined: 80%			

ANALYSIS SUMMARY: The Board acknowledges the CI's assertions that, "Decision was made without complete assessment." It is noted for the record that the Board has neither the jurisdiction nor authority to scrutinize or render opinions in reference to asserted service improprieties in the disposition of a case. 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. It must also judge the fairness of PEB fitness adjudications based on the fitness consequences of conditions as they existed at the time of separation. The Board notes the VA ratings for other conditions documented at the time of separation and for conditions not diagnosed while in the service (but later determined to be service-connected by the VA). While the Disability Evaluation System (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 Department of Veterans Affairs (DVA), however, 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.

Low Back Condition. The CI was on medical hold for her gynecologic condition when she was first evaluated for a 4 year history of low back pain by neurosurgery. After an extensive evaluation the neurosurgeon diagnosed degenerative disc disease (DDD) of L4-L5 (lumbar) and L5-S1 (lumbar-sacral). Her pain was significantly reproduced with a discogram at the L4-L5 level and thus she opted for a minimally invasive lumbar procedure, an intradiscal electrothermal therapy, for definitive care which resulted in a good clinical response. However, she continued to have low back pain when performing her duties. The permanent profile identified low back pain and included the following limitations; no crawling, stooping, jumping, running, load-bearing equipment, physical training or testing, riding in tactical vehicles, lifting more than 20 pounds or standing for longer than 20 minutes. The commander's statement was not in evidence for consideration. 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	NARSUM ~12 Mo. Pre-Sep	VA C&P ~5 Mo. Post-Sep
Flexion (90° Normal)	80	80
Ext (0-30)	30	15
R Lat Flex (0-30)	--	10
L Lat Flex 0-30)	--	15
R Rotation (0-30)	--	5
L Rotation (0-30)	--	10
Combined (240°)	--	135
Comment	Painful motion	Guarded
§4.71a Rating	10%	10%

At the MEB exam, the CI reported pain was in the center of the low back, worsened with activity, minimal sciatic pain or paresthesias and no urinary complaints. She reported responding well to the lumbar spine procedure and was now taking nonsteroidal rather than narcotic pain medications. She described the pain as half as severe as prior to the procedure of 5 of 10 in intensity. The MEB physical exam demonstrated mild myofascial pain, normal gait, and normal neuromuscular findings. The magnetic resonance imaging (MRI) revealed lumbar DDD at L4-5 worse than L5-S1 with a mild spinal stenosis at L4-5. At the VA Compensation and Pension (C&P) exam after separation, the CI additionally reported constant low back pain, 7 of 10 in intensity and loss of many days from work in the last year as a result of the back condition. The C&P exam demonstrated slight antalgic gait which the examiner opined was from her recent pelvic surgery, normal heel-toe walking and normal neuromuscular findings. X-rays of the lumbosacral spine revealed a slight decrease in the L4-5 intervertebral disc space. The examiner diagnosed DDD of the lumbosacral spine, s/p intra-discal electrothermal therapy, but without objective evidence of lower extremity radiculopathy or muscle spasm.

The Board directs attention to its rating recommendation based on the above evidence. The VASRD coding and rating standards for the spine, which were in effect at the time of the CI's separation, were changed to the current §4.71a rating standards on 26 September 2003. The 2002 standards for rating based on ROM impairment were subject to the rater's opinion regarding degree of severity, whereas the current standards specify rating thresholds in degrees of ROM impairment. The two potentially applicable codes from the 2002 VASRD are excerpted below:

5292 Spine, limitation of motion of, lumbar:

- Severe 40
- Moderate 20
- Slight 10

5295 Lumbosacral strain:

- Severe; with listing of whole spine to opposite side, positive Goldthwaite's sign, marked limitation of forward bending in standing position, loss of lateral motion with osteo-arthritic changes, or narrowing or irregularity of joint space, or some of the above with abnormal mobility on forced motion 40
- With muscle spasm on extreme forward bending, loss of lateral spine motion, unilateral, in standing' position 20
- With characteristic pain on motion 10
- With slight subjective symptoms only 0

The MEB and VA assigned a 10% rating for the CI's low back condition; however chose different codes but this did not bear on rating. The 20% rating for the MEB's chosen code 5295 is fairly specifically defined as noted above. The CI's condition clearly did not meet the criteria for a rating higher than 10% under the 5295 code based on either the MEB or the VA examinations.

The Board also considered the VA chosen code 5292 for limitation of spine motion. The Board agreed neither exam supports a “moderate” 20% rating under that code. There is no evidence of ratable peripheral nerve impairment which would provide for additional or higher 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 low back condition.

Pelvic Pain Condition. Over the course of 6 years the CI underwent pain management with narcotic pain medications, hormonal therapy and several gynecologic surgeries for chronic pelvic pain. The surgeries included; myomectomy (fibroid extraction from the uterus), laparoscopic lysis of adhesions and abdominal removal of the uterus, left fallopian tube and ovary for uterine fibroids and pelvic pain. She was placed on medical hold for a medical board for persistent chronic pelvic pain. While on medical hold she had more gynecologic symptoms including continued pelvic pain and vaginal bleeding and was noted to have a right adnexal mass on ultrasound. She opted for surgery with removal of the right fallopian tube and ovary. Final pathology revealed benign follicular cyst, adhesions of the fallopian tube to the ovary, no frank evidence of endometriosis or neoplasm. Final diagnosis was chronic pelvic pain secondary to severe pelvic adhesive disease involving the right ovary to the vaginal cuff. At follow-up exam a month after surgery the CI reported significant improvement from the preoperative pain. The postoperative physical exam demonstrated well healed ventral incision and normal post operative pelvic exam. The examiner diagnosed severe pelvic adhesive disease, s/p surgical intervention. At the C&P exam after separation, the CI reported some pain at the right edge of the surgical scar, otherwise no gynecological complaints. There was no VA exam and the examiner referenced the postoperative examination referenced above.

The Board directs attention to its rating recommendation based on the above evidence. The PEB and VA chose different coding options for the condition which had significant implications on the rating for the Board to consider. The PEB assigned a 10% rating coded 7301 (Peritoneum, adhesions of) IAW §4.114—Schedule of ratings—digestive system for moderate pain, without documented partial obstruction. The Board agreed this code choice is not specifically consistent with the clinical pathology. The VA assigned a 50% rating with an analogous code 7613-7617 (Uterus and both ovaries, removal of, complete) IAW §4.116—Schedule of ratings—gynecological conditions and disorders of the breast. The Board agreed the removal of the uterus and bilateral ovaries is not the reason for her functional impairment but rather the pain from the pelvic adhesive disease. The Board considered the 7614 (Fallopian tube, disease, injury, or adhesions of (including pelvic inflammatory disease [PID])) and 7615 (Ovary, disease, injury, or adhesions of) VASRD codes, both of which best capture the clinical pathology. The Board agreed after the final surgery the evidence supports the 0%, non compensable, rating criteria, symptoms that do not require continuous treatment under either of these codes. However, the Board's recommendation may not produce a lower combined rating than that of the PEB. Since an alternative VASRD code confers no rating benefit, no change is recommended. 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 pelvic pain 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. As discussed above, PEB reliance on DoDI 1332.39 for rating the low back and pelvic pain condition was operant in this case and the condition was adjudicated independently of that instruction by the Board. In the matter of the low back and pelvic pain condition and

IAW VASRD §4.71a and VASRD §4.116 respectively, 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	5299-5295	10%
Pelvic Adhesive Disease	7301	10%
	COMBINED	20%

The following documentary evidence was considered:

- Exhibit A. DD Form 294, dated 20120602, w/atchs
- Exhibit B. Service Treatment Record
- Exhibit C. Department of Veterans' Affairs Treatment Record

XXXXXXXXXXXXXXXXXX, 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 XXXXXXXXXXXXXXXX, AR20120022707 (PD201200510)

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