

RECORD OF PROCEEDINGS
PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXXXXXXXXXXXX
CASE NUMBER: PD1200633
BOARD DATE: 20121220

BRANCH OF SERVICE: ARMY
SEPARATION DATE: 20030115

SUMMARY OF CASE: Data extracted from the available evidence of record reflects that this covered individual (CI) was an active duty PFC /E-3 (92A/Automated Logistical Specialist), medically separated for chronic low back pain (LBP) and Crohn's disease. The back pain condition began in 2002 and was not a consequence of injury. Evaluation revealed herniated nucleus pulposus of the lumbar spine, but it was not associated with a surgical indication. Although the CI was hospitalized for an episode of acute gastroenteritis 2 years prior to entry in the Army, the Crohn's disease condition was not diagnosed until he was in basic training. The condition required partial bowel resection for bowel obstruction and iron replacement for blood loss anemia. The CI did not improve adequately with treatment to meet the physical requirements of his Military Occupational Specialty (MOS) or satisfy physical fitness standards. He was issued a permanent P3L3 profile and referred for a Medical Evaluation Board (MEB). The MEB forwarded Crohn's disease, and herniated nucleus pulposus to the Physical Evaluation Board (PEB) as medically unacceptable IAW AR 40-501. Iron deficiency anemia and knee pain secondary to patellofemoral syndrome conditions, identified in the rating chart below, were also identified and forwarded by the MEB. The PEB adjudicated the chronic LBP condition as unfitting, rated 10% with application of the Veteran's Affairs Schedule for Rating Disabilities (VASRD). The PEB determined that the Crohn's disease condition existed prior to entry in the service (EPTS) without permanent service aggravation, and therefore was not eligible for service rating. The remaining conditions were determined to be medically acceptable. The CI made no appeals, and was medically separated with a 10% disability rating.

CI CONTENTION: "Chron's Disease (sic), Lumbar myositis L5-S1, Left knee patellofemoral (sic), Lumbar radiculopathy, Left and Right Extremity."

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 left knee patellofemoral syndrome and lumbar radiculopathy conditions, as requested for consideration meet the criteria prescribed in DoDI 6040.44 for Board purview; and, are addressed below, in addition to a review of the service ratings for the unfitting conditions, Crohn's disease and chronic LBP in (lumbar myositis). 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 20021028			VA (2 Mos. Post-Separation) – All Effective Date 20030116			
Condition	Code	Rating	Condition	Code	Rating	Exam
Chronic Low Back Pain	5299-5295	10%	Lumbar Myositis, L5-S1	5293	10% ¹	20030328
Herniated Nucleus Pulposus	Not Unfitting		Herniated Nucleus Pulposus			
Crohn's Disease	7399-7326	EPTS	Crohn's disease	7399-7323	30% ²	20030329
Iron Deficiency Anemia	Not Unfitting		Anemia	7799-7700	0%	20030520
Knee Pain	Not Unfitting		Left Knee Patellofemoral Synd.	5299-5257	10% ¹	20030328
↓ No Additional MEB/PEB Entries ↓			0% x 0 / Not Service-Connected x 0			
Combined: 10%			Combined: 40%¹			

¹VA decision 20040924 increased to 30% and 20% respectively, effective 20040507; combined to 70% with non-PEB conditions

²VA decision 20061003 reduced to 10%, effective 20070401; combined 60%

ANALYSIS SUMMARY:

Chronic Low Back Pain Condition. The 2003 VASRD coding and rating standards for the spine, which were in effect at the time of separation, were changed to the current §4.71a rating standards in 2004. The pre-2004 ratings were based on a judgment as to whether the disability was mild, moderate or severe. The 2004-current standards are grounded in range-of-motion (ROM) measurements. IAW DoDI 6040.44, this Board must consider the appropriate rating for the CI's back condition at separation based on the VASRD standards in effect at the time of separation (i.e. pre-2004 standards). The CI experienced onset of low blood pressure in January 2002 following a physical fitness test. Magnetic resonance imaging (MRI) showed a moderate to large disc herniation at L5-S1 without spinal stenosis or neuroforaminal impingement. A bone scan was negative. Physical therapy provided no improvement. At an orthopedic evaluation 10 months prior to separation, the CI indicated his pain was exacerbated by flexion and extension. Sitting was the most comfortable position, while standing or lying supine caused the worst pain. Examination revealed a detailed negative lower extremity neurologic assessment and a negative straight leg raise test (SLR). Flexion was noted as "hands to mid tibia" (normal is 90 degrees by current standards) and extension was 5 degrees (30 degrees is current normal). Mild tenderness of the lumbar spine was present. The narrative summary (NARSUM) examiner 7 months prior to separation reported improvement of the back pain, but pain still occurred. Examination noted some lumbar tenderness and a normal neurologic exam. An orthopedic NARSUM addendum 6 months prior to separation noted non-focal neurologic findings and a negative SLR. At the VA Compensation and Pension (C&P) exam 2 months after separation the CI complained of constant LBP that had recently worsened. It was exacerbated by weight bearing and could radiate to the right lateral hip. He complained of numbness and tingling of the entire right and left lower extremities. He was using non-narcotic pain medication. He used no assistive devices for walking and denied unsteadiness. The condition prevented him from playing basketball. Physical examination revealed a normal gait, posture and spinal curvature. ROM measurements noted 86 degrees of flexion, 20 degrees of extension, and 30 degrees, lateral bending right and left (examiner considered normal to be 40 degrees, but normal is considered 30 degrees by current standards). Painful lumbar flexion was observed. Repetition caused painful motion, but additional limitation was not described. Paravertebral muscle tenderness and spasm were present. Lower extremity muscle strength, sensation and deep tendon reflexes (DTR) were normal. Evocative maneuvers for lower extremity radiculopathy were negative.

The Board must correlate the above clinical data with the 2003 rating schedule which, for convenience, is excerpted below:

5292 Spine, limitation of motion of, lumbar:

Severe	40
Moderate	20
Slight	10

5293 Intervertebral disc syndrome: Evaluate intervertebral disc syndrome (preoperatively or postoperatively) either on the total duration of incapacitating episodes over the past 12 months or by combining under Sec. 4.25 separate evaluations of its chronic orthopedic and neurologic manifestations along with evaluations for all other disabilities, whichever method results in the higher evaluation.

With incapacitating episodes having a total duration of at least six weeks during the past 12 months.....	60
With incapacitating episodes having a total duration of at least four weeks but less than six weeks during the past 12 months.....	40
With incapacitating episodes having a total duration of at least two weeks but less than four weeks during the past 12 months.....	20
With incapacitating episodes having a total duration of at least one week but less than two weeks during the past 12 months.....	10

Note (1): For purposes of evaluations under 5293, an incapacitating episode is a period of acute signs and symptoms due to intervertebral disc syndrome that requires bed rest prescribed by a physician and treatment by a physician. "Chronic orthopedic and neurologic manifestations" means orthopedic and neurologic signs and symptoms resulting from intervertebral disc syndrome that are present constantly, or nearly so.

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 PEB assigned a 10% rating under an analogous 5295 code, while the VA assigned the same rating under the 5293 code (intervertebral disc syndrome). A 10% rating is justified if the condition is reflected by "slight" limitation of lumbar motion under 5292 or "characteristic pain on motion" under 5295. The Board debated if a higher rating was justified using the older VASRD rules in effect at the time, but agreed that elements of the 20% rating under the 5292 or 5295 codes were not present on any of the cited examinations. The 5293 code used by the VA was also considered, but there was no evidence of incapacitating episodes justifying the 20% rating under that pathway. The Board notes that although the PEB adjudicated the herniated

nucleus pulposus condition as not unfitting, it is more properly subsumed under the chronic LBP condition as not separately unfitting. The Board also considered if additional disability rating was justified for peripheral nerve impairment. Although some radiating pain and lower extremity numbness and tingling were reported, MRI did not show neuroforaminal narrowing, and there was no evidence on multiple exams of functional impairment due to neuropathy. The Board therefore concludes that additional disability rating was not justified on this basis. After due deliberation, considering all of the evidence and mindful of VASRD §4.3 (Resolution of reasonable doubt), the Board concluded that there was insufficient cause to recommend a change in the PEB adjudication for the chronic LBP condition.

Crohn's Disease Condition. The Board's main charge regarding this condition is evaluation of the PEB's EPTS determination. The Board's authority for recommending a change in the service's EPTS determination is not specified in DoDI 6040.44, but is considered adjunct to its DoD-specified obligation to review fitness adjudications. As with its consideration of fitness adjudications, the Board's threshold for countering service EPTS determinations is higher than the VASRD §4.3 (Resolution of reasonable doubt) standard used for its rating recommendations, but remains adherent to the DoDI 6040.44 "fair and equitable" standard. The PEB assigned an analogous code 7326 (enterocolitis, chronic) to the Crohn's disease, but in their EPTS determination assigned no rating. The VA assigned a 30% rating under an analogous 7323 code (ulcerative colitis). The only evidence the condition possibly pre-existed entry into the service was a hospitalization on 11 December 1998 for a gastrointestinal illness ("acute gastroenteritis"), with symptoms that mimicked those of Crohn's disease. It is this event the PEB used as a basis for the EPTS determination. However, the record of that hospitalization clearly shows a different cause of the gastrointestinal symptoms, namely infection by a bacterial pathogen (Shigella). This infection was proven by culture to be the etiology. The enlistment physical exam on 15 December 2000 noted this hospitalization for gastroenteritis, although not the cause, and stated "full recovery no recurrences" and "no other history of past or present illness." In the Army, the CI's symptoms first manifested in October 2001 when he experienced abdominal pain and was found to have a marked iron deficiency anemia. A small bowel obstruction ensued which required surgery to remove part of the ileum. A definitive diagnosis could not be pathologically confirmed at that time, and an extensive evaluation also failed to establish an etiology. Persistence of iron deficiency anemia and recurrence of abdominal pain in February 2002 ultimately led to the need for a colonoscopy which showed an ulcerative lesion at the site of the prior surgery. Biopsy was suspicious for the diagnosis of Crohn's disease. Aggressive treatment with medication for Crohn's disease was instituted. At the NARSUM exam performed on 26 June 2002, the CI reported ongoing problems with abdominal pain which prevented physical training. Some nausea without vomiting was present. Physical examination revealed diffuse mild to moderate abdominal tenderness. Laboratory evaluation was remarkable for a mild anemia. However, after being off of steroids for 2 weeks, blood in the stool recurred and steroids were again required on 11 July 2002. Persistent bloody stool and abdominal pain led to another brief hospitalization 2 weeks later. A repeat colonoscopy 5 months prior to separation was normal. A gastroenterology addendum 3 months prior to separation reported that the CI was continuing treatment with mesalamine (a medication for Crohn's disease), but that the steroid treatment regimen was completed. At a VA clinic evaluation 2 months after separation, the CI denied recent abdominal pain or diarrhea. The examination revealed a non-tender abdomen. At the C&P exam 2 months after separation, the CI still complained of frequent abdominal pain, particularly when doing physical exercise, and alternating diarrhea and constipation. Physical examination revealed no evidence of malnutrition. A follow-up C&P exam 4 months after separation indicated the Crohn's disease condition appeared to be in remission, but he was still taking a medication for it. A mild iron-deficiency anemia due to blood loss from Crohn's disease was noted.

Contended PEB Condition. The contended condition adjudicated as not unfitting by the PEB was knee pain. 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 (Resolution of reasonable doubt) standard used for its rating recommendations, but remains adherent to the DoDI 6040.44 "fair and equitable" standard. A diagnosis of left knee patellofemoral pain syndrome was made on 6 July 2001; on 12 September 2001 he injured the knee after falling on it while running. An orthopedic evaluation performed on 23 July 2002 noted "minimal leg pain" and full range of knee motion with no tenderness. Although knee pain was profiled with back pain, unlimited walking and up to a mile of marching was permitted. The commander's statement did not specifically identify a knee condition. The MEB did not judge the condition to fail retention standards. This condition was reviewed by the action officer and considered by the Board. There was no indication from the record that this condition 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 knee pain condition; and, therefore, no additional disability ratings can be recommended.

The Board first directs attention to the PEB's EPTS determination. Members agreed that there is no medical evidence Crohn's disease existed prior to entry into the service. The VA examiner also concluded the pre-enlistment hospitalization did not represent Crohn's disease, and the VA did not assess the condition as EPTS. The Board unanimously concludes that there was no basis for an EPTS determination, and that the proper approach is to therefore assign a rating based on the condition's severity at the time of separation. The Board directs attention to its rating recommendation based on the above evidence. A rating under the analogous 7326 code used by the PEB is assigned based on criteria for irritable colon syndrome (7319). This pathway calls for a 10% rating for "moderate; frequent episodes of bowel disturbance with abdominal distress; and for a 30% rating for "severe; diarrhea, or alternating diarrhea and constipation, with more or less constant abdominal distress." Board members agreed that under this code the clinical picture at the time of separation was most accurately depicted by the 10% criteria. Consideration was given to a higher rating under the analogous 7323 code used by the VA. Board members agreed that the 60% rating was not supported ("Severe; with numerous attacks a year and malnutrition, the health only fair during remissions"). Debate focused on the 10% ("Moderate; with infrequent exacerbations") and 30% ratings ("Moderately severe; with frequent exacerbations"). It was concluded by the Board majority that "infrequent exacerbations" was not an accurate descriptor of the condition under this code, and that the 30% criteria more accurately depicted the clinical condition. The Board also considered the iron deficiency anemia that was caused by the Crohn's disease. While the CI suffered significant blood loss anemia early in the course of the Crohn's disease, this substantially improved, and near the time of separation was minimal. The Board concluded therefore that this condition could not be recommended for additional disability rating. After due deliberation, considering all of the evidence and mindful of VASRD §4.3 (Resolution of reasonable doubt), the Board recommends a disability rating of 30% for the Crohn's disease condition, coded 7399-7323.

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 chronic LBP condition and IAW VASRD §4.71a, the Board unanimously recommends no change in the PEB adjudication. In the matter of the Crohn's disease condition, the Board unanimously recommends no deduction for EPTS; and recommends, by a vote of 2:1, a disability rating of 30%, coded 7399-7323 IAW VASRD §4.114. The single voter for dissent (who recommends a rating of 10%) did not elect to submit a minority opinion. In the matter of the contended knee pain 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 recommends that the CI's prior determination be modified as follows; and, that the discharge with severance pay be recharacterized to reflect permanent disability retirement, effective as of the date of his prior medical separation:

UNFITTING CONDITION	VASRD CODE	RATING
Chronic lower back pain	5299-5295	10%
Crohn's disease	7399-7323	30%
	COMBINED	40%

The following documentary evidence was considered:

- Exhibit A. DD Form 294, dated 20120607, 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
XXXXXXXXXXXXXXXXXX, AR20130001034 (PD201200633)

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 reject the Board's recommendation and hereby deny the individual's application. There is insufficient justification to support the Board's recommendation in accordance with Army and Department of Defense regulations.
2. It is not conceded that Existed Prior to Service (EPTS) conditions fall under the jurisdiction of the PDBR. Even if EPTS conditions were reviewable, however, the PDBR has not successfully refuted the four reasons given by the Physical Evaluation Board in reaching their decision that the Crohn's disease condition existed prior to entry in the service without permanent service aggravation, and therefore was not eligible for service rating.

3. 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