

RECORD OF PROCEEDINGS  
PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXXXXXXXX  
CASE NUMBER: PD1200814  
BOARD DATE: 20130109

BRANCH OF SERVICE: ARMY  
SEPARATION DATE: 20010914

**SUMMARY OF CASE:** Data extracted from the available evidence of record reflects that this covered individual (CI) was an active duty SPC/E-4 (75H/Personnel Management Specialist), medically separated for fibromyalgia. The fibromyalgia condition could not be adequately rehabilitated for the CI to meet the physical requirements of her Military Occupational Specialty (MOS) or satisfy physical fitness standards. She was issued a permanent L3 profile and referred for a Medical Evaluation Board (MEB). The MEB forwarded fibromyalgia (chronic back pain), history of abnormal pap smear and chest pain for Physical Evaluation Board (PEB) adjudication. No other conditions appeared on the MEB’s submission. The PEB adjudicated the fibromyalgia condition, which included atypical chest pain, as unfitting, rated 20% with application of the Veteran’s Affairs Schedule for Rating Disabilities (VASRD). The history of abnormal pap smear was determined to be not unfitting. The CI made no appeals, and was medically separated with a 20% disability rating.

**CI CONTENTION:** “I believe this rating is inaccurate because not only do I have pain all over my body, I constantly have pain every day that requires me to take medication every day. At the same time I have seen a VA Physical Therapist, XXXXXXXXXXXX and was given a routine of strengthening, relaxation, mobility exercises that would be required throughout my life for day to day functionality. My condition is constant and has effected my entire lifestyle! See VA medical records for letter written by my spouse!!” [sic]

**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 fibromyalgia condition requested for consideration meets the criteria prescribed in DoDI 6040.44 for Board purview, and is accordingly addressed below. The abnormal pap smear condition is not within the Board’s purview. 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 20010607			VA (~6 Mos. Post-Separation) – All Effective Date 20010915			
Condition	Code	Rating	Condition	Code	Rating	Exam
Fibromyalgia	5025	20%	Fibromyalgia	5025	20%	20020304
Abnormal PAP Smear	Not Unfitting		Abnormal Pap Smear	Not Service Connected		
↓No Additional MEB/PEB Entries↓			0% X 1 / Not Service-Connected x 5			
<b>Combined: 20%</b>			<b>Combined: 20%</b>			

**ANALYSIS SUMMARY:** The Board acknowledges the sentiment expressed in the CI’s application regarding the significant impairment with which her service-aggravated condition continues to

burden her. It is a fact, however, that the Disability Evaluation System (DES) has neither the role nor the authority to compensate members for anticipated future severity or potential complications of conditions resulting in medical separation. This role and authority is granted by Congress to the Department of Veterans Affairs (DVA). The DVA, operating under a different set of laws (Title 38, United States Code), is empowered to compensate service-connected conditions and to periodically re-evaluate said conditions for the purpose of adjusting the Veteran's disability rating should her degree of impairment vary over time. The Board utilizes DVA evidence proximal to separation in arriving at its recommendations; and, DoDI 6040.44 defines a 12-month interval for special consideration to post-separation evidence. The Board's authority as defined in DoDI 6044.40, however, resides in evaluating the fairness of DES fitness determinations and rating decisions for disability at the time of separation. Post-separation evidence therefore is probative only to the extent that it reasonably reflects the disability and fitness implications at the time of separation.

Fibromyalgia Condition. The insidious onset of low back pain(LBP) in 1999 was followed by chronic pain symptoms diagnosed as fibromyalgia in 2000. A referral to rheumatology in January 2001 indicated the fibromyalgia medication was helpful for sleep. The rheumatology addendum narrative summary (NARSUM) (8 months prior to separation) stated that despite appropriate treatment, the CI continued to have functionally limiting symptoms that included diffuse arthralgias, myalgias and atypical chest pain. The examination revealed the presence of fibromyalgia tender points at all sites tested. The assessment was fibromyalgia, refractory to therapy. The NARSUM examiner 6 months prior to separation stated that she was unable to perform her MOS duties except with great difficulty. While she could not participate in unit PT, she could perform PT on her own, which included lifting up to 15 pounds, walking, swimming and bicycling. The commander's statement noted that the CI could not perform the "moderately heavy" physical activities of her MOS, but she could still perform many of the functions of her MOS in garrison. At the VA Compensation and Pension (C&P) exam 6 months after separation, the CI reported that she was no longer taking medication for the condition and did not intend to refill her prescription. She was noted to be pregnant. She complained of generalized muscle ache, headaches, sleep disturbance, depression and constant tiredness. She stated that her condition did not require bed rest or treatment by a physician, but that her average daily activities were reduced to 30% compared to pre-sickness levels. Examination revealed normal posture and gait and the presence of multiple fibromyalgia tender points. The assessment was that the condition had a minimal effect on the CI's usual occupation and daily activities.

The Board directs attention to its rating recommendation based on the above evidence. Under the 5025 code, a 20% rating is appropriate when symptoms are episodic, with exacerbations often precipitated by environmental or emotional stress or by overexertion, but are present more than one third of the time. A 40% rating, the maximum rating available under this code, is warranted when fibromyalgia is constant, or nearly so, and refractory to therapy. Board members agreed that the PEB's 20% rating was supported by the evidence, but debated if the next higher 40% rating was justified. Board members noted that the rheumatologist considered the condition refractory to therapy, but this statement was limited in context to the performance of MOS responsibilities. The CI's statement that her daily activity level was reduced to 30% of normal seemed to conflict with the VA examiner's note that the condition had a minimal effect on daily activities, and that she did not require bed rest or treatment by a physician. It was also noted that prior to separation she could still perform many of her MOS functions and participate in self-directed PT. The Board therefore finds that the evidence does not most nearly approximate a disability picture at the time of separation characterized by symptoms that are constant and refractory to therapy, and therefore the 40% rating is not warranted. The atypical chest pain forwarded by the MEB was appropriately considered by the PEB as a symptom of fibromyalgia. 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 fibromyalgia 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 fibromyalgia 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.

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**RECOMMENDATION:** The Board, therefore, recommends that there be no recharacterization of the CI's disability and separation determination, as follows:

<b>UNFITTING CONDITION</b>	<b>VASRD CODE</b>	<b>RATING</b>
Fibromyalgia	5025	20%
	<b>COMBINED</b>	<b>20%</b>

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The following documentary evidence was considered:

- Exhibit A. DD Form 294, dated 20120606, 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 / XXXXXXX), 2900 Crystal Drive, Suite 300, Arlington, VA 22202-3557

SUBJECT: Department of Defense Physical Disability Board of Review Recommendation for  
XXXXXXXXXXXXXXXXXX, AR20130000731 (PD201200814)

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

XXXXXXXXXXXXX  
Deputy Assistant Secretary  
(Army Review Boards)

CF:  
 DoD PDBR  
 DVA