

RECORD OF PROCEEDINGS
PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXXXXXXXXXXXX
CASE NUMBER: PD1200911
BOARD DATE: 20121214

BRANCH OF SERVICE: ARMY
SEPARATION DATE: 20020401

SUMMARY OF CASE: Data extracted from the available evidence of record reflects that this covered individual (CI) was an active duty SPC/E-4 (77F/Petroleum Supply Specialist), medically separated for diabetes mellitus requiring Insulin for management. The CI was diagnosed with diabetes mellitus in October 2000. He was placed on an oral hypoglycemic medication with diet restrictions, and when this regimen was unsuccessful he was started on insulin in November 2000. The CI's diabetes mellitus condition did not improve with treatment. The CI was unable to meet the physical requirements of his Military Occupational Specialty (MOS) or satisfy physical fitness standards. He was issued a permanent P3L2 profile and referred for a Medical Evaluation Board (MEB). The MEB forwarded diabetes mellitus type I, requiring Insulin to the Physical Evaluation Board (PEB). Hyperlipidemia, elevated blood pressure without evidence of hypertension and proteinuria, identified in the rating chart below, were also identified and forwarded by the MEB. The PEB adjudicated the diabetes mellitus requiring Insulin condition as unfitting, rated 20%, with application of the Veteran's Affairs Schedule for Rating Disabilities (VASRD). The remaining conditions were determined to be "not disqualifying" (not unfitting). The CI made no appeals, and was medically separated with a 20% disability rating.

CI CONTENTION: "At the time of discharge I was diagnosed with Diabetes Mellitus type I with diabetic retinopathy, diabetic peripheral neuropathy of the hands and feet and erectile dysfunction. I was given a 20% rating for all these conditions combined and not separated out and rated based on each condition."

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 condition diabetes mellitus type I as requested for consideration meets the criteria prescribed in DoDI 6040.44 for Board purview and is addressed below. The other requested conditions (diabetic retinopathy, diabetic peripheral neuropathy of the hands and feet and erectile dysfunction) are not within the Board's purview as they were not documented on the MEB/PEB at the time of separation. 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 20020108			VA (2 Mos. Pre-Separation) – All Effective Date 20020402			
Condition	Code	Rating	Condition	Code	Rating	Exam
Diabetes Mellitus requiring insulin	7913	20%	Insulin Dependent Diabetes Mellitus Type I	7913	20%	20020129
Hyperlipidemia	Not disqualifying		No VA Entry			
Elevated Blood Pressure	Not disqualifying		Normotensive (claimed as HTN)	7101	NSC	20020129
Proteinuria	Not disqualifying		See 7913 above			20020129
↓No Additional MEB/PEB Entries↓			0% X 1 / Not Service-Connected x 1			
Combined: 20%			Combined: 20%*			

*DM (7913) increased to 40% with addition of ratings for Diabetic Retinopathy (6006-6065), Peripheral Neuropathy of hands and erectile dysfunction (8520 x2) based on exam of 20100622, effective 20100216 (combined 100%).

ANALYSIS SUMMARY: The Board acknowledges the sentiment expressed in the CI’s application regarding the significant impairment and worsening severity with which his service-incurred condition continues to burden him. The Board wishes to clarify that it is subject to the same laws for disability entitlements as those under which the Disability Evaluation System (DES) operates. 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. That role and authority is granted by Congress to the Department of Veterans Affairs (DVA), operating under a different set of laws (Title 38, United States Code). 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. The Board further acknowledges the CI’s contention for ratings for other conditions documented at the time of separation, and notes that its recommendations in that regard must comply with the same governance. 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 DVA, however, 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 the degree of impairment vary over time.

Diabetes Mellitus Requiring Insulin Condition. The narrative summary (NARSUM) provided the history of diagnosis and progression to diabetes mellitus type I requiring insulin for control. By the time of the NARSUM, the CI was “currently asymptomatic.” Physical examinations demonstrated no significant abnormalities. Recent lab testing indicated fasting blood sugar (FBS) of 381 (normal 70-110), glycosolated hemoglobin (HBA1C) of 14.1% (normal below 6%; diabetic goal 6-7%; diabetic caution 7-8%; noncompliance over 8%), urinalysis of 2+ ketones and abnormal protein/creatinine ratio indicating significant proteinuria. Despite medication and dietary compliance, and adjustments to the insulin regimen, the CI continued to have difficulty managing the insulin sliding scale. The Specialty Care Consult for the MEB, dictated 7 months prior, to separation noted that the diabetes control was “suboptimal.”

The NARSUM examiner stated, “While control is less than perfect, in the opinion of Internal Medicine control is probably as good as it is ever going to be,” and the CI was asymptomatic at that time. The examiner further noted functional limitations of inability to perform strenuous activity, as this would make diabetes control more difficult; an inability to deploy to a field environment as the CI needed to perform blood testing and insulin injections several times a day and an inability to be deployed to any area that did not have a definitive emergency and internal medicine care and refrigeration facilities for insulin.

The CI's permanent profile written in November 2000 (16 months prior to separation) for Insulin dependent diabetes mellitus indicated no unlimited walking, running, bicycling, or swimming; however, all fitness testing aside from the two mile run was permitted. The functional activities (block 7) were listed as allowing "All." The commander's statement indicated non-deployability as the largest problem with "difficulty of lifting and moving heavy fuel tubes and-bags that would seem extremely easy for others. And he cannot do this without becoming very dehydrated and dizzy. He is unable to handle major equipment in his MOS. He becomes confused and dizzy and is not able to make good judgment in completing the mission. It makes him a danger to himself and other soldiers. He gets very tired very easily and it causes a problem when he is needed to lift 10K, 50K bags and pulling guard duty in the field."

The VA Compensation & Pension (C&P) examination performed 2 months prior to separation indicated continued difficulty regulating the blood sugar although the CI was taking insulin in the morning and evening and using an insulin sliding scale at lunchtime. The CI still had continued symptoms of excessive thirst, needing to urinate frequently, losing and gaining weight, not being able to lift objects, occasional itchiness and tingling of the skin and developing a rash over his body with some skin discoloration. Exam showed no significant abnormalities. A treadmill exercise stress test showed good effort and conditioning reaching 9.5 metadata encoding and transmission standard (METs). A blood sugar done at this exam was 366 (normal 65-109) and the urine was significant for 3+ glucose and 1+ ketones. The examiner replied to the question of effects of the condition on the CI's usual occupation, as field environment would cause him possible problems. Running (a mile) and ruck marching (for 6 miles only) would also be problematic for the Veteran as would lift heavy objects over 40 pounds. He is able to carry and fire a rifle. These conditions will limit his ability to function in his military work." A C&P exam for diabetes 14 months after separation indicated no episodes of hypoglycemia or ketoacidosis and the CI remained on insulin. He had developed visual and peripheral nerve symptoms. There was no restriction of activities. Neurologic exam was normal and there were no ophthalmic signs from diabetes mellitus. The C&P exam 22 June 2012 over 8 years post-separation showed post-separation worsening of the CI's diabetes mellitus and residuals of diabetes mellitus.

The Board directs attention to its rating recommendation based on the above evidence. The PEB and the VA applied the 7913 code for diabetes mellitus and both rated 20%. The Board reviewed the symptomatology that the CI exhibited and agreed that the rating of 20% was fully met by IAW VASRD criteria. The CI's condition required insulin and he was on a diabetic diet. The CI did not have evidence of episodes of ketoacidosis or hypoglycemic reactions requiring hospitalizations, or twice a month visits to a diabetic care provider. The key issue for deliberation was if the CI met the criteria of "regulation of activities." This is defined under VASRD code 7913 and VA rulings as physician prescribed regulation of activities (avoidance of strenuous occupational and recreational activities).

After due deliberation, considering all of the evidence and mindful of VASRD §4.3 (reasonable doubt), the Board majority concluded that there was insufficient cause to recommend a change in the PEB adjudication for the diabetes mellitus requiring Insulin 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 diabetes mellitus requiring Insulin condition and IAW VASRD §4.119, the Board, by a vote of 2:1, recommends no change in the PEB adjudication. The single voter for dissent, who recommended a rating of 40%, did not elect to submit a

minority opinion. 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
Diabetes Mellitus Requiring Insulin	7913	20%
	COMBINED	20%

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

XXXXXXXXXXXXX, 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, AR2013000013 (PD201200911)

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