

RECORD OF PROCEEDINGS  
PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXXXXXXXXXXXX  
CASE NUMBER: PD1201076  
BOARD DATE: 20121205

BRANCH OF SERVICE: ARMY  
DATE OF PLACEMENT ON TDRL: 20000826  
DATE OF PERMANENT SEPARATION: 20020405

**SUMMARY OF CASE:** Data extracted from the available evidence of record reflects that this covered individual (CI) was an active duty Soldier, PVT/E-2(88M/Motor Transport), medically separated for asthma. The CI had a history of shortness of breath for approximately 9 months with symptoms of wheezing, coughing and chest tightness. 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 P3 profile and referred for a Medical Evaluation Board (MEB). The MEB forwarded asthma, severe persistent; and allergic rhinitis as medically unacceptable IAW AR 40-501. The MEB forwarded no other conditions for Physical Evaluation Board (PEB) adjudication. The PEB adjudicated the asthma as unfitting, rated 30%, with application of the Veteran’s Affairs Schedule for Rating Disabilities (VASRD), and placed the CI on Temporary Disability Retired List (TDRL) as reflected in the chart below. The PEB adjudicated the allergic rhinitis as not unfitting. A final PEB in March 2002 adjudicated the asthma at 10%; the CI made no appeals; and was medically separated with a 10% disability rating.

**CI CONTENTION:** The CI elaborated no specific contention in his application.

**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 asthma condition as requested for consideration meet the criteria prescribed in DoDI 6040.44 for Board purview; and, is addressed below, in addition to a review of the ratings for the unfitting condition. 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.

**TDRL RATING COMPARISON:**

Service PEB – Dated 20020305				VA* – All Effective Date 20000826			
Condition	Code	Rating		Condition	Code	Rating	Exam
On TDRL – 20000826		TDRL	Sep.				
Asthma	6602	30%	10%	Bronchial Asthma	6602	30%	STRs*
Allergic Rhinitis		Not Unfitting		No VA Entry			
↓No Additional MEB/PEB Entries↓				0% x 0/Not Service Connected x 1			
Combined: 10%				Combined: 30%			

\* STRs from 1998 to 2000; CI failed to report for his VA exam on 10/27/00.

ANALYSIS SUMMARY:

Asthma Condition. There were three pulmonary function tests (PFT) in evidence, with documentation of additional ratable criteria, which the Board weighed in arriving at its rating recommendation; as summarized in the chart below.

Pulmonary Exam	MEB ~10 Mos. Pre-TDRL*	Clinic ~9 Mos. Pre-TDRL*	TDRL Exam ~3 Mos. Pre-TDRL Exit
FEV1 (% Predicted)	98%*	59%*	112%
FEV1/FVC	-	-	89%
Meds	Pre-Albuterol FEV1=57%; Flovent and Salmeterol 2x daily; Albuterol as needed; 1x course of systemic steroids last month	Flovent and Salmeterol 2x daily; Albuterol as needed (at 2x/day)	Albuterol as needed; normal spirometry; no change with bronchodilator
§4.97 Rating	30%	30% (PEB & VA 30%)	10%

\* PFT values by report; source spirometry not in record. Clinic 59% undocumented if pre- or post-bronchodilator

At the pre TDRL MEB exam, the CI reported symptoms consistent with asthma, was diagnosed with asthma and had inadequate relief with daily medications as summarized above. He had been given a recent course of systemic steroids the prior month with an emergency room visit. The CI had continued symptoms of exertional and nocturnal wheezing, and shortness of breath with the above medications. The MEB physical exam noted clear lungs and the medications and PFTs are summarized above. The diagnosis was severe persistent asthma. Allergy/Immunology clinic follow-up the month after the MEB continued the diagnosis and is summarized above. There was no VA Compensation and Pension (C&P) exam in evidence.

At the TDRL exam, the CI continued to have weekly flare ups of his asthma which were controlled with Albuterol inhalers as needed. He stated he had not seen a physician for 2 years. Medication was Albuterol inhaler as needed. Lungs were clear to auscultation bilaterally, and PFTs are summarized above. The assessment was poorly controlled asthma “classified as at least a moderate persistent asthma. He is currently without symptoms. The patient was advised to locate and follow up with a PMD in his home town for follow up of asthma.”

The Board directs attention to its rating recommendation based on the above evidence. On TDRL entry, the CI clearly met the 30% rating criteria IAW VASRD §4.97 as he required daily bronchodilator and/or anti-inflammatory therapy. He had only one course of systemic corticosteroids in the last year. Revised Fast letter 97-67 directs that post-bronchodilator results be used for rating, and the clinic report of “FEV1 59%” was not clearly indicated as post-bronchodilator use. However, even if this value is used, all PFTs were no greater than those specified in the 30% criteria. The Board does not find adequate reasonable doubt favoring the CI in support of a rating recommendation higher than 30% TDRL entry rating.

In its deliberations for rating at TDRL exit, the Board devoted ample attention to the issue of whether the requirement for daily bronchodilator and/or anti-inflammatory therapy was met in this case, as that is the pivotal criteria between a 10% or 30% rating IAW VASRD §4.97. The record was clear that at TDRL exit the CI was neither prescribed nor taking daily medications. The Board noted that the CI’s asthma was not well controlled, he had not sought medical care for his asthma for 2 years, and the CI was recommended to seek pulmonary physician evaluation and care. The CI’s PFTs were normal and he was clearly on intermittent inhalational bronchodilator therapy, meeting the criteria for the 10% rating IAW VASRD §4.97.

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 adjudications for the asthma condition for entry into TDRL or at exit from TDRL.

The Board concluded therefore that this condition could not be recommended for additional disability rating.

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**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 asthma condition and IAW VASRD §4.97, the Board unanimously recommends no change in the PEB adjudication on TDRL entry or TDRL exit. 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:

UNFITTING CONDITION	VASRD CODE	RATING	
		TDRL	PERMANENT
Asthma	6602	30%	10%
	<b>COMBINED</b>	<b>30%</b>	<b>10%</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

XXXXXXXXXXXXXXXX, 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  
XXXXXXXXXXXXXXXXXXXXXXXX, AR20120022721 (PD201201076)

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