RECORD OF PROCEEDINGS

PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXXXXXXXXXXXXXX BRANCH OF SERVICE: Army

CASE NUMBER: PD1200035 SEPARATION DATE: 20080824

BOARD DATE: 20120927

SUMMARY OF CASE: Data extracted from the available evidence of record reflects that this covered individual (CI) was an active duty PVT/E-1 (Trainee for 15P/Avionics Operations Specialist)medically separated for left hip pain secondary to healed inferior pubic ramus stress fracture. Despite extensive physical therapy (PT) and medications the CI failed 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 migraine headaches, pulmonary insufficiency, mitral valve insufficiency, recurrent urinary tract infection (UTI), esophageal reflux, nicotine dependence, left shoulder tendonitis, and dyspareunia as medically acceptable conditions on the DA Form 3947 to the Physical Evaluation Board (PEB). The PEB adjudicated the left hip pain secondary to healed inferior pubic ramus stress fracture condition as unfitting, rated 10%, with application of the Veterans Administration Schedule for Rating Disabilities (VASRD). The CI made no appeals, and was medically separated with a 10% disability rating.

CI CONTENTION: “I became symptomatic in December 2007 and went undiagnosed with Dysautonomia and Mitral Valve Prolapse during my service time. I continue with severe symptoms and have been unable to become employed since my departure from the military.”

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 mitral valve condition as requested for consideration and the unfitting left hip condition meet the criteria prescribed in DoDI 6040.44 for Board purview; and, are addressed below. The remaining conditions rated by the VA at separation and listed on the DA Form 294 application are 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 20080731** | | | **VA (8 Mo. After Separation) – All Effective Date 20080825** | | | |
| **Condition** | **Code** | **Rating** | **Condition** | **Code** | **Rating** | **Exam** |
| Chronic Left Hip Pain Secondary To Healed Inferior Pubic Ramus Stress Fracture | 5299-5255 | 10% | Chronic Left Hip Pain | 5010-5252 | 10% | 20081008 |
| Migraine Headaches | Not Unfitting | | Migraine headaches | 8100 | 0%\* | 20081008 |
| Pulmonary Insufficiency | Not Unfitting | | Mitral Valve Insufficiency w/ related Pulmonary Insufficiency | 7099-7000 | 0%\* | 20081008 |
| Mitral Valve Insufficiency | Not Unfitting | |
| Recurrent UTI | Not Unfitting | | Recurrent UTI’s and Urethritis w/Dyspareunia | 7512 | 10% | 20081008 |
| Dyspareunia | Not Unfitting | |
| Esophageal Reflux | Not Unfitting | | Esophageal Reflux | 7346 | 10% | 20081008 |
| Nicotine Dependence | Not Ratable | | No VA Entry |  |  |  |
| L/Shoulder Tendonitis | Not Unfitting | | L/Shoulder Tendonitis | 5201-5010 | 10% | 20081008 |
|  | | | Depressive Disorder w/Anxiety and Alcohol Dependence in Remission | 9440 | 30% | 20090213 |
| ↓No Additional MEB/PEB Entries↓ | | | 0% x 2/Not Service Connected x 3 | | | 20081008 |
| **Combined: 10%** | | | **Combined: 60%** | | | |

\* VARD 20081104 Voc Rehab 10% for L/Hip. Migraine Headaches increased to 30% based on VA treatment records effective 20110127 Mitral and Pulmonic valvular insufficiency with associated dysautonomia increased to 20% (code 5099-5025) based on VA 20110824 exam effective 20110127. Combined rating increased to 70% effective 20080825.

ANALYSIS SUMMARY: The Board acknowledges the sentiment expressed in the CI’s application regarding the significant impairment with which her service-incurred conditions continue to burden her. It is a fact, however, that the Disability Evaluation System (DES) has neither the role nor the authority to compensate service 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 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.

Left Hip Condition. There were three 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.

|  |  |  |  |
| --- | --- | --- | --- |
| Left Hip (Thigh) ROM | MEB ~1 Mo. Pre-Sep | VA C&P ~ 3 Mo. Post-Sep | VA C&P ~ 8 Mo. Post-Sep |
| Flexion (0-125⁰) | 115 | 125⁰ | 125⁰ |
| Extension (0-20⁰) | 12⁰ w weakness 6⁰-12⁰ | - | 35⁰ |
| External Rotation (0-45⁰) | - | - | - |
| Abduction (0-45⁰) | 20⁰ | 40⁰ | 35⁰ |
| Adduction (0-45⁰) | - | 25⁰ | - |
| Comment | Gait normal; pubic pain on abduction; most difficulty with ROM left leg; unable to finish extension due to pain | Normal gait; tenderness medial part of left hip; slight pain with adduction/flexion | Minimal tenderness in medial aspect of hip; repetitive ROM x3 with slight pain in abduction beyond 40⁰ (pregnant) |
| §4.71a Rating | 10% | 10% | 10% |

The CI’s hip pain and stress fracture was well documented in the numerous service treatment records (STR). The CI sustained a stress fracture to the left pubic ramus in October 2007. A bone scan revealed an early stress fracture in the medial left inferior pubic ramus (pelvis), superior cortex. The CI complained of left hip pain and underwent extensive physical therapy (PT). A repeat bone scan in January 2008 showed no change in the fracture. The CI was seen by orthopedics and given crutches; a wheelchair to prevent weight bearing on the hip and was advised no running, climbing or weight lifting. The MEB examination performed a month prior to separation indicated several trials of PT; non-steroidal anti-inflammatory drugs and temporary profiles. The examiner noted pubic pain on abduction and most difficulty with left leg ROM and the exam is summarized above. Throughout the STR including PT, medicine and orthopedics, from October 2007 through July 2008, there is well documented left hip painful motion.

The VA Compensation & Pension (C&P) examination performed 3 months after separation, documented numbing pain in the medial aspect of the left hip that flared up with excessive walking which limited the CI’s ability to perform her activities of daily living. A second VA C&P examination, 8 months after-separation noted moderate functional loss with excessive walking, long sitting and driving.

The Board directs attention to its rating recommendation based on the above evidence. The PEB rated the left hip at 10% coded analogous to 5255 (femur, impairment of malunion; slight hip disability) and the VA rated the left hip at 10% analogous to 5252 (thigh, limitation of flexion). Neither coding is predominate, and all exams were ratable at 10%. 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 chronic left hip pain condition.

Contended PEB Condition (Mitral Valve): The PEB diagnosis was mitral valve insufficiency. In December 2007 the CI was seen in the emergency room for “difficulty breathing” that was associated with a rash and hives with associated symptoms of slurred speech, right arm weakness and decreased vision. Evaluation to rule out stroke was negative including normal chest and head CTs, blood work indicating infection, and normal EKG. Diagnoses were allergic reaction and acute complicated migraine. Further evaluation included an echocardiogram, three months prior to separation that demonstrated “the presence of ‘trivial mitral valve insufficiency’ and pulmonic valve insufficiency.” “Overall global ejection fraction was above 60%” (normal), and there was no hypertrophy or abnormal wall motions or ventricular dysfunction. The MEB examination did not indicate any complaints of breathing difficulty at rest or with exertion. The profile did not address any cardiac condition or limitations referable to any cardiac condition. The commander’s statement did not address any cardiac condition or limitations.

The VA C&P examination stated “she gives a history of shortness of breath with running. She stated that even when she was at the top of her physical fitness with other things in the military, running always caused her shortness of breath and she would have headache. She can swim without any problem of shortness of breath or other symptoms.” The cardiac exam was normal and no medication was required. Stress test was considered not feasible due to chronic hip pain and pregnancy. 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 mitral valve insufficiency 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 chronic left hip pain condition and IAW VASRD §4.71a, the Board unanimously recommends no change in the PEB adjudication. In the matter of the contended mitral valve insufficiency 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, therefore, recommends that there be no recharacterization of the CI’s disability and separation determination, as follows:

|  |  |  |
| --- | --- | --- |
| **UNFITTING CONDITION** | **VASRD CODE** | **RATING** |
| Chronic Left Hip Pain | 5299-5255 | 10% |
| **COMBINED** | **10%** |

The following documentary evidence was considered:

Exhibit A. DD Form 294, dated 20120105, w/atchs

Exhibit B. Service Treatment Record

Exhibit C. Department of Veterans’ Affairs Treatment Record

XXXXXXXXXXXXXXX

President

Physical Disability Board of Review

SFMR-RB

MEMORANDUM FOR Commander, US Army Physical Disability Agency

(TAPD-ZB / ), 2900 Crystal Drive, Suite 300, Arlington, VA 22202-3557

SUBJECT: Department of Defense Physical Disability Board of Review Recommendation for XXXXXXXXXXXXXXXX, AR20120019879 (PD201200035)

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 XXXXXXXXXXXXXXXXXXXXX

Deputy Assistant Secretary

(Army Review Boards)

CF:

( ) DoD PDBR

( ) DVA