RECORD OF PROCEEDINGS

PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXXXXXXXXXXXXXX BRANCH OF SERVICE: Army

CASE NUMBER: PD1200158 SEPARATION DATE: 20010930

BOARD DATE: 20120912

SUMMARY OF CASE: Data extracted from the available evidence of record reflects that this covered individual (CI) was a Reserve Chief Warrant Officer/CW2 (350D/Imagery Intelligence Technician), medically separated for chronic hand and foot dermatitis. The condition began in 1998 and did not improve adequately with treatment to meet the physical requirements of his Military Occupational Specialty (MOS). He was issued a permanent P3 profile and referred for a Medical Evaluation Board (MEB). The MEB forwarded chronic hand and foot dermatitis to the Physical Evaluation Board (PEB) as medically unacceptable IAW AR 40-501. No other conditions appeared on the MEB’s submission. The PEB adjudicated the chronic hand and foot dermatitis condition as unfitting, rated 10% with application of the Veteran’s Affairs Schedule for Rating Disabilities (VASRD). The CI made no appeals, and was medically separated with a 10% disability rating.

CI CONTENTION: “Department of Veteran Affairs rated my disability at 60%.”

SCOPE OF REVIEW: The Board wishes to clarify that the scope of its review as defined in the Department of Defense Instruction (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 chronic hand and foot dermatitis condition requested for consideration meets the criteria prescribed in DoDI 6040.44 for Board purview, and is addressed below. 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 20010730** | **VA (~9 Yrs Post-Separation)** |
| **Condition** | **Code** | **Rating** | **Condition** | **Code** | **Rating** | **Exam** |
| Chronic Hand / Foot Dermatitis | 7806 | 10% | Dermatitis of Bilateral Hands and Feet | 7806 | 60%\* | 20101123 |
| ↓No Additional MEB/PEB Entries↓ | DM Type 2 | 7913 | 20%\*\* | 20111105 |
| PTSD | 9411 | 10%\*\* | 20110827 |
| 0% X 1 / Not Service-Connected x 2 | 20101123 |
| **Combined: 10%** | **Combined: 60%\*\*** |

\*Effective date 20091214

\*\*Effective date 20100913, combined 70%

ANALYSIS SUMMARY: It is noted for the record that the Board recognizes the significant interval (9 years) between the date of separation and the VA evaluation. DoDI 6040.44, under which the Board operates, specifies a 12-month interval for special consideration to the Department of Veterans Affairs (DVA) findings. This does not mean that the DVA information was disregarded, as it was a valuable source for clinical information and opinions relevant to the Board’s evaluation. In matters germane to the severity and disability at the time of separation, however, the information in the service record was assigned proportionately more probative value as a basis for the Board’s rating recommendations.

Chronic Hand and Foot Dermatitis Condition. The 2001 Veteran Administration Schedule for Rating Disabilities (VASRD) coding and rating standards for dermatitis and eczema, which were in effect at the time of separation, were changed to the current §4.118 rating standards in 2003, following the CI’s disability disposition. The older ratings were based on a judgment about the degree of exfoliation, exudation or itching; or the presence of disfigurement, systemic or nervous manifestation. The current standards are based on the percentage of body area affected and the requirement for systemic therapy. IAW DoDI 6040.44, this Board must consider the appropriate rating for the CI’s skin condition at separation based on the VASRD standards in effect at the time of separation. A pathologic diagnosis of acute spongiotic dermatitis (characteristic of eczema) was confirmed by two skin biopsies. The condition continued to be refractory to multiple topical medications, necessitating trials of oral steroids and of PUVA therapy (ultraviolet light and topical chemotherapy). The commander’s statement dated 6 months prior to separation noted it was very difficult for the CI to perform moderate to heavy lifting or to maintain aerobic conditioning due to his condition. A dermatology clinic evaluation 6 months prior to the CI separating showed redness and skin thickening of the feet which was minimal compared to pre-PUVA therapy. The hands showed redness, thickening and scaling. The MEB physical exam performed 6 months prior to separation noted a scaly, thickened rash on both hands (mostly palms) and on the feet. The narrative summary (NARSUM) examiner reported that with more regular and consistent use of PUVA since January 2001, marked improvement of the foot dermatitis occurred. Near complete resolution of redness and scaling, and decreased pain, itching and cracking was noted. The palms responded much more slowly however, and significant itching and scaling persisted. Examination revealed red, thickened coalescent plaques with fissuring of the palms, and mild redness with minimal scaling of the plantar surfaces. There was no evidence in the service treatment record that oral medication for itching was prescribed. Approximately 9 years after separation (2010), two VA Compensation and Pension (C&P) exams reported that the CI continued to experience symptoms that interfered with activities such as playing the guitar or performing manual labor. In the prior 12- months he had only used topical treatments. Exam revealed dry, roughened skin of the palms, fingers and soles of the feet that was described as covering 4% of the entire body surface area or 45% of exposed skin.

The Board directs attention to its rating recommendation based on the above evidence. Since the VA exams fall well outside the 12-month window specified in DoDI 6040.44 regarding VA evaluations for Board consideration, little probative value can be assigned to them. Although the VA relied on the newer VASRD criteria, with their rating based on the percentage of exposed skin affected, these criteria are not applicable to the Board’s deliberation. The Board must correlate the above clinical data with the 2001 rating schedule which, for convenience, is excerpted below:

 **7806** Eczema:

With ulceration or extensive exfoliation or crusting, and systemic or

nervous manifestations, or exceptionally repugnant ............................... 50

With exudation or itching constant, extensive lesions, or

marked disfigurement ............................................................................... 30

With exfoliation, exudation or itching, if involving an exposed

surface or extensive area ………………………………………………………………………..10

With slight, if any, exfoliation, exudation or itching, if on a

nonexposed surface or small area .............................................................. 0

The PEB’s 10% rating was based on an assessment that the condition was characterized by involvement of an exposed surface. The Board agreed that criteria for the higher 30% and 50% ratings were not present. 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 hand and foot dermatitis 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 hand and foot dermatitis condition and IAW VASRD §4.118, the Board unanimously recommends no change in the PEB adjudication. 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 Hand and Foot Dermatitis | 7806 | 10% |
| **COMBINED** | **10%** |

The following documentary evidence was considered:

Exhibit A. DD Form 294, dated 20120123, w/atchs

Exhibit B. Service Treatment Record

Exhibit C. Department of Veterans’ Affairs Treatment Record

 XXXXXXXXXXXXXXXX

 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

SUBJECT: Department of Defense Physical Disability Board of Review Recommendation for XXXXXXXXXXXXXXXXXXXXXXX, AR20120016885 (PD201200158)

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 XXXXXXXXXXXXXXXXXXXX

 Deputy Assistant Secretary

 (Army Review Boards)

CF:

( ) DoD PDBR

( ) DVA