

RECORD OF PROCEEDINGS
PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXXXXXXXXXXXX
CASE NUMBER: PD1200384
BOARD DATE: 20121116

BRANCH OF SERVICE: ARMY
SEPARATION DATE: 20070314

SUMMARY OF CASE: Data extracted from the available evidence of record reflects that this covered individual (CI) was a SPC/E-4 (92G, Food Service) medically separated for chronic right hip pain. He was treated, but did not improve adequately to fully perform his military duties or meet physical fitness standards. He was issued a permanent L3 profile and underwent a Medical Evaluation Board (MEB). The MEB found his chronic right hip pain medically unacceptable, and referred him to a Physical Evaluation Board (PEB). No other conditions were listed on the DA Form 3947. The PEB found the chronic right hip pain unfitting, and rated it 10%. The CI accepted the PEB findings and was medically separated with 10% disability rating.

CI's CONTENTION: "Right hip changed from 10% to at least 50%." He elaborates no other specific contention.

SCOPE OF REVIEW: The Board's scope of review as defined in DoDI 6040.44, 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 unfitting right hip pain condition meets the criteria prescribed in DoDI 6040.44 for Board purview, and is accordingly addressed below. No other condition is within the Board's purview. Any condition outside the Board's defined scope of review may be eligible for future consideration by the Army Board for the Correction of Military Records.

RATING COMPARISON:

Service PEB – dated 20061206			VA (~1 mo. Pre-Separation) – Effective 20070315			
Condition	Code	Rating	Condition	Code	Rating	Exam
Chronic Right Hip Pain	5003	10%	Degen. Joint Disease, Right Hip	5255	30%*	20070223
↓ No Additional MEB/PEB Entries ↓			Right Wrist Neuroma	5099-5015	10%	20070223
Combined: 10%			Combined: 40%			

*The VA rating for Right Hip Disease was later increased, by a subsequent VA Rating Decision (VARD) dated 20071002

ANALYSIS SUMMARY:

Chronic right hip pain. The CI developed right hip pain in March 2005. He was seen at Madigan Army Medical Center and diagnosed with arthritis/osteomyelitis. The CI was treated with medications, interventional radiology, and physical therapy (PT). In spite of treatment, he continued to have problems with the right hip and an MEB was initiated. His MEB clinical evaluation was on 18 October 2006. At that time, he was in no apparent distress. He was using a cane for support and could not bear full weight on the right leg. Examination of the right hip

showed some tenderness, but no redness or swelling. Right hip range-of-motion (ROM) had been measured by PT a week prior, and is summarized in the chart below.

On 23 February 2007, the CI had a VA Compensation and Pension (C&P) examination. At that exam, there was some tenderness and guarding of the right hip. X-rays showed mild-to-moderate degenerative arthritic change in the right hip. In the CI's treatment record, two relevant ROM evaluations were in evidence, and are summarized below.

Right Hip ROM	MEB (PT) – 22 weeks Pre-Sep (20061010)	VA C&P – 3 weeks Pre-Sep (20070223)
Flexion (125° is normal)	109°	90°
Extension (0° is normal)	Full ROM	10°
Ext. Rotation (45° is normal)	29°	10°
Abduction (45° is normal)	14°	10°
Adduction (0° is normal)	Full ROM	10°
Comment	Pain with abduction	Painful motion
§4.71a Rating	10%*	20%

*10% based on VASRD §4.40 (Functional loss), §4.45 (The joints), and §4.59 (Painful motion)

The PEB and the VA chose different coding and rating options for the right hip condition. The PEB used diagnostic code 5003, and rated it 10%. The VA used code 5255 (femur, impairment of) and rated it 30% for malunion. The Board carefully reviewed all evidentiary information available. After consideration of the two hip examinations noted above, the Board determined that the most appropriate code for the right hip condition is code 5253 (thigh, impairment of). code 5255 does not apply in this case because the treatment record does not show a history of femoral fracture with malunion. The Board also determined the February 2007 C&P exam had greater probative value since it was conducted just 3 weeks prior to the date of separation. Based on the February 2007 C&P exam, and IAW the VA Schedule for Rating Disabilities (VASRD) §4.71a, a rating of 20% is warranted due to limitation of abduction, with motion lost beyond 10 degrees. Normal ROM for hip/thigh abduction is 45°. The evidence in the treatment record does not show sufficient justification for a rating greater than 20%. After due deliberation, considering all of the evidence and mindful of VASRD §4.3 (reasonable doubt), the Board unanimously recommends a disability rating of 20% for the chronic right hip pain condition. It is appropriately coded 5253, and meets criteria for the 20% rating level.

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 right hip pain condition, the Board unanimously recommends a disability rating of 20%, coded 5253, IAW VASRD §4.71a.

There were no other conditions within the Board's scope of review for consideration.

RECOMMENDATION: The Board recommends that the CI's prior determination be modified as follows, effective as of the date of his prior medical separation:

UNFITTING CONDITION	VASRD CODE	RATING
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Chronic Right Hip Pain	5253	20%
	COMBINED	20%

The following documentary evidence was considered:

Exhibit A. DD Form 294, dated 20120504, w/atchs

Exhibit B. Service Treatment Record

Exhibit C. Department of Veterans' Affairs Treatment Record

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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 XXXXXXXXXXXXXXXXXXXX, AR20120021433 (PD201200384)

1. 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 to modify the individual's disability rating to 20% without recharacterization of the individual's separation. This decision is final.

2. I direct that all the Department of the Army records of the individual concerned be corrected accordingly no later than 120 days from the date of this memorandum.

3. I request that a copy of the corrections and any related correspondence be provided to the individual concerned, counsel (if any), any Members of Congress who have shown interest, and to the Army Review Boards Agency with a copy of this memorandum without enclosures.

BY ORDER OF THE SECRETARY OF THE ARMY:

Encl

XXXXXXXXXXXXXXXXXXXXX
Deputy Assistant Secretary
(Army Review Boards)

CF:
() DoD PDBR
() DVA