

RECORD OF PROCEEDINGS
PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXXXXXXXXXXXXXXXX
CASE NUMBER: PD1200446
BOARD DATE: 20130103

BRANCH OF SERVICE: ARMY
SEPARATION DATE: 20090209

SUMMARY OF CASE: Data extracted from the available evidence of record reflects that this covered individual (CI) was an active duty SSG/E-6 (35G30/Imagery Analyst), medically separated for diabetes mellitus (DM), Type 2. The CI was first diagnosed with DM in 1998. She was issued a permanent P3U2L2 profile and referred for a Medical Evaluation Board (MEB). The MEB referred the CI to the Physical Evaluation (PEB) which returned the CI to duty on 23 December 1999. In 2003, she met a Military Occupational Specialty (MOS) Medical Retention Board and was retained in her MOS. She deployed in 2006 and was returned early secondary to poor control of her DM. After returning to her home station, she remained in poor control and was thought to be poorly compliant. She did not meet all the requirements of her MOS and was issued a P3U2L2 and referred for another MEB. The MEB determined that the DM did not meet retention standards and forwarded the DM condition to the PEB. Migraine headaches, bilateral knee pain, high cholesterol, hypertension, herpes and left shoulder pain conditions, identified in the rating chart below, were also forwarded by the MEB. The PEB adjudicated the DM, Type 2 condition as unfitting, rated 20%, with application of the Veterans Affairs Schedule for Rating Disabilities (VASRD). The other conditions were determined to be not unfitting. The CI made no appeals and was medically separated with a 20% disability rating.

CI CONTENTION: “Based off the rating criteria diabetes is my life. my day to day and meals, exercise, everything revolves around my condition at that time I required more than 3 injections daily Since then I have been put on Insulin pump. I don’t believe 20% was a fair and accurate rating for my condition. I also required blood sugar testing before and after each meal, and morning & bed time testing.”

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 DM, Type 2 condition meets the criteria prescribed in DoDI 6040.44 for Board purview is addressed below. The remaining conditions rated by the VA at separation and/or listed on the DD Form 294 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 20081021			VA (~1 Mo. Post-Separation) – All Effective Date 20090210			
Condition	Code	Rating	Condition	Code	Rating	Exam
Diabetes Mellitus, Type 2	7913	20%	Type II Diabetes Mellitus	7913	20%	20081125
Migraine Headaches	Not Unfitting		Right Lower Extremity Neuritis	8620	10%	20081125
Bilateral Knee Pain	Not Unfitting		Left Lower Extremity Neuritis	8620	10%	20081125
High Cholesterol	Not Unfitting		Migraines	8100	10%	20081125
Hypertension	Not Unfitting		Right Knee Strain	5260-5024	10%	20081125
Herpes	Not Unfitting		Left Knee Strain	5260-5024	10%	20081125
Left Shoulder Pain	Not Unfitting		NO VA ENTRY			
↓No Additional MEB/PEB Entries↓			Hypertension (Claimed as HTN)	7101	0%	20081125
			Genital Herpes Simplex 2	7820-7806	30%	20081125
			Left Shoulder Strain	5201-5024	10%	20081125
			Depressive Disorder	9434	30%	20081120
			Lumbar Scoliosis and Strain	5237	20%	20081125
			Left Hip Bursitis	5252-5019	10%	20081125
			Acne	7828	10%	20081125
			0% X 7/Not Service-Connected x 5			
			Combined: 90%			
	Combined: 20%					

ANALYSIS SUMMARY: The Disability Evaluation System (DES) is responsible for maintaining a fit and vital fighting force. 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 DES has neither the role nor the authority to compensate members for anticipated future severity or potential complications of conditions resulting in medical separation nor for conditions determined to be service-connected by the Department of Veterans Affairs (DVA) but not determined to be unfitting by the PEB. However the DVA, operating under a different set of laws (Title 38, United States Code), is empowered to compensate all 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. The Board's role is confined to the review of medical records and all evidence at hand to assess the fairness of PEB rating determinations, compared to VASRD standards, based on severity at the time of separation.

Diabetes Mellitus, Type 2 Condition. The CI was diagnosed with DM in 1998 when she was incidentally found to have an elevated sugar level in her urine during a routine appointment. She was initially treated with lifestyle modification and oral medications, but later had Insulin added to her medication regimen. Over the course of her service, she had increased problems with control of her diabetes with excessive blood sugars as well as an elevated hemoglobin A1C, a measure of chronic blood sugar levels. The CI was thought to be poorly compliant with treatment and lifestyle. The Board noted that the 68 inch CI entered service at 139 pounds and was 203 pounds at her 23 Dec 2008 OB-GYN examination, 6 weeks prior to separation. Obesity is well known to complicate control of DM and to exacerbate elevated blood sugar values. At the 7 August 2008 visit, 6 months prior to separation and over 10 years after the initial diagnosis, the treating endocrinologist documented that the CI had no known microvascular complications.

The Board directs attention to its rating recommendation based on the above evidence. The PEB and VA both rated the DM condition at 20% and coded it as 7913, DM. For a rating higher than 20%, "regulation of activities" must be present. The Board did not adjudge that there was sufficient evidence of physician directed regulation of activities (avoidance of strenuous occupational and recreational activities) beyond that done in all cases of diabetes. After due deliberation, considering all of the evidence and mindful of VASRD §4.3 (Resolution of reasonable doubt), the Board concluded that there was insufficient cause to recommend a change in the PEB adjudication for the DM 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 DM condition and IAW VASRD §4.120, 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
Diabetes Mellitus	7913	20%
	COMBINED	20%

The following documentary evidence was considered:

- Exhibit A. DD Form 294, dated 20120328, w/atchs
- Exhibit B. Service Treatment Record
- Exhibit C. Department of Veterans' Affairs Treatment Record

xxxxxxxxxxxxxxxxxxxxxxxxxxxx, DAF
 Director
 Physical Disability Board of Review

SFMR-RB

MEMORANDUM FOR Commander, US Army Physical Disability Agency
(TAPD-ZB / xxxxxxxxxxxx), 2900 Crystal Drive, Suite 300, Arlington, VA 22202-3557

SUBJECT: Department of Defense Physical Disability Board of Review Recommendation
for xxxxxxxxxxxxxxxxxxxxxxxxx, AR20130003079 (PD201200446)

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

xxxxxxxxxxxxxxxxxxxxxxxxxx
Deputy Assistant Secretary
(Army Review Boards)