RECORD OF PROCEEDINGS

PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXXXXXXXXXXXX BRANCH OF SERVICE: Army

CASE NUMBER: PD1200481 SEPARATION DATE: 20030331

BOARD DATE: 20121010

SUMMARY OF CASE: Data extracted from the available evidence of record reflects that this covered individual (CI) was an active duty SPC/E-4 (71L10/Administrative Specialist), medically separated for chronic left wrist pain. The condition began while performing pushups during basic training in 1999. He did not respond adequately to operative and rehabilitative treatment and was unable to meet the physical requirements of his Military Occupational Specialty (MOS) or satisfy physical fitness standards. He was issued a permanent U3 profile and referred for a Medical Evaluation Board (MEB). The MEB forwarded chronic left wrist pain 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 left wrist pain condition as unfitting, rated 0%, with application of the US Army Physical Disability Agency (USAPDA) pain policy. The CI made no appeals, and was medically separated with the Service disability rating.

CI CONTENTION: “According to the doctor I am stuck with the pain and discomfort because the surgery wouldn’t help and due to my job I can only take certain medications so I have to just deal with my condition the best I can.”

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 chronic left wrist pain condition requested for consideration meets the criteria prescribed in DoDI 6040.44 for Board purview, and is accordingly addressed below. Any condition 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 PEB – Dated 20030121** | **VA (27 Mos. Post-Separation) – All Effective Date 20050512** |
| **Condition** | **Code** | **Rating** | **Condition** | **Code** | **Rating** | **Exam** |
| Chronic Left Wrist Pain | 5099-5003 | 0% | Chronic Left Wrist Synovitis | 5099-5020 | 0%\* | 20050727 |
| No Additional MEB/PEB Entries |

\* Increased to 10% effective 20070124 & added scar, left wrist coded 7804 rated @ 0% effective 20070124, VARD 20070723

ANALYSIS SUMMARY: The Board acknowledges the sentiment expressed in the CI’s application regarding the significant impairment with which his service-incurred condition continues to burden him. The Board wishes to clarify that it is subject to the same laws for disability entitlements as those under which the Disability Evaluation System (DES) operates. The 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. That role and authority is granted by Congress to the Department of Veterans’ Affairs (DVA), operating under a different set of laws (Title 38, United States Code). The Board evaluates DVA evidence proximal to separation in arriving at its recommendations, but its authority resides in evaluating the fairness of DES fitness decisions and rating determinations for disability at the time of separation. While the DES considers all of the service member's medical conditions, compensation can only be offered for those medical conditions that cut short a service member’s career, and then only to the degree of severity present at the time of final disposition. The DVA, however, is empowered to compensate 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.

Chronic Left Wrist Pain Condition. The right hand dominant CI underwent left wrist arthroscopic surgery performed on 2 February 2002 for a tear of the triangular fibrocartilage complex (TFCC; a stabilizing ligamentous structure in the wrist). There were two 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 Wrist ROM degrees | Ortho ~6 Mo. Pre-Sep | OT ~4 Mo. Pre-Sep |
| Dorsiflexion (0-70) | 75 | 60 |
| Palmar Flexion (0-80) | 65 | 90 |
| Ulnar Deviation (0-45) | 20 | 30 |
| Radial Deviation (0-20) | 20 | 10 |
| Comment | Pain with use |  |
| §4.71a Rating | 10% | 10%\* |

 \*Conceding pain with use or painful motion

A magnetic resonance imaging (MRI) performed 13 months after surgery was normal. An orthopedic outpatient evaluation 10 months prior to separation reported that the CI experienced 7/10 pain with use of the left wrist. At the MEB exam 4 months prior to separation, the CI reported that pain occurred when attempting push-ups, and limited his ability to lift weights and handle weapons. The pain caused him to type less often. Examination revealed a surgical scar on the dorsal aspect of the left wrist. No swelling was present. ROM of the wrist was “normal.” The exam was silent regarding tenderness or painful motion. The MEB occupational therapist (OT) reported normal measured grip strength, and forearm pronation and supination of 85 degrees (normal to 80 degrees). At the VA exam performed on 27 July 2005, 28 months after separation, the CI stated he had not been seen for the condition since he separated from the service, and was not taking medication for it. He tried a brace but it was not helpful. He continued to experience left wrist pain that worsened in the winter and was exacerbated by lifting or repetitive wrist activities. He denied weakness, but noted stiffness and occasional swelling. He complained that the wrist was easily fatigued and lacked endurance. Examination revealed no swelling or redness. Strength and sensation were intact, but repetitive use caused fatigue. X-rays were normal.

The Board directs attention to its rating recommendation based on the above evidence. The PEB assigned a 0% rating under an analogous 5003 code (degenerative arthritis) with application of the USAPDA pain policy. Although non-compensable limitation of wrist motion was present, the Board debated if the CI’s symptoms were severe enough to warrant application of §4.40 (functional loss) which states that “a part which becomes painful on use must be regarded as seriously disabled.” Board members agreed that this pathway to a 10% rating under the PEB’s coding approach was justified. After due deliberation, considering all of the evidence and mindful of VASRD §4.3 (reasonable doubt), the Board recommends a disability rating of 10% for the chronic left wrist pain 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. As discussed above, PEB reliance on the USAPDA pain policy for rating chronic pain, left wrist was operant in this case and the condition was adjudicated independently of that policy by the Board. In the matter of the chronic left wrist pain condition, the Board unanimously recommends a disability rating of 10%, coded 5099-5003 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** |
| Chronic Left Wrist Pain | 5099-5003 | 10% |
| **COMBINED** | **10%** |

The following documentary evidence was considered:

Exhibit A. DD Form 294, dated 20120603, w/atchs

Exhibit B. Service Treatment Record

Exhibit C. Department of Veterans’ Affairs Treatment Record

 XXXXXXXXXXXXXXXXXXXXXXXXX

 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 XXXXXXXXXXXXXXXXXXX, AR20120018614 (PD201200481)

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 10% 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 XXXXXXXXXXXXXXXXXXXX

 Deputy Assistant Secretary

 (Army Review Boards)

CF:

( ) DoD PDBR

( ) DVA