RECORD OF PROCEEDINGS

PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXXXXXXXXXXXX BRANCH OF SERVICE: Army

CASE NUMBER: PD1200523 SEPARATION DATE: 20030106

BOARD DATE: 20121018

SUMMARY OF CASE: Data extracted from the available evidence of record reflects that this covered individual (CI) was an active duty SSG/E-6 (31L30, Wire Systems Installer/Maintainer), medically separated for recurrent heat stroke with rhabdomyolysis. Although he fully recovered after each episode, the risk for recurrence during the rigors of military service was disqualifying for the 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 no other conditions for Physical Evaluation Board (PEB) adjudication. The PEB adjudicated the heat stroke with rhabdomyolysis condition as unfitting, rated 0%, with application of the Veteran’s Affairs Schedule for Rating Disabilities (VASRD). The CI made no appeals, and was medically separated with a 0% disability rating.

CI CONTENTION: “Rating should be changed due to the fact that I am only receiving a 10% rating for a chronic knee condition but nothing for the reason why I was involuntarily discharge from the Army. I (continued) after suffering two (2) Heat Strokes in the Army I was hospitalized and placed on light duty for a long period of time. All evidence to two Heat Strokes is in Military Medical Records. Was discharged from the Army because I suffered two (2) Heat Strokes. The first being in Haiti, the second being in Ft. Bragg, NC. I tried and wanted to stay in the military to retire. I even suggested to medical board that I would be willing to go back to recruiting duty, where I completed three (3) years successfully. I was told it would cost government too much to reclassify me. After first Heat Stroke in Haiti I was informed that I was susceptible to Heat Strokes the rest of my life. I suffered a second and was forced out. I suffered from headaches and dizziness, prior to Strokes. After being told I have no other recourse to being discharged I continued to follow doctors orders to drink plenty of water, stay out of direct sun, maintain health and possibly limit physical activity in the heat. Immediately prior to both Heat Strokes and even to this very day I suffered from Severe Headaches. So I limit physical activities. So far I have managed to avoid hospitals. All information is in military medical. Even though I suffered two (2) Heat Strokes and was told I was being discharged for it, I do not receive any rating what so ever for it. I only receive a 10% rating for a chronic knee problem. The headaches and dizziness and passing out causing the heat stroke is the issue of me being discharged. Last letter I received from Disability Review Board stated that rating for Heat Strokes would basically remain at 0% pending for further documents. It also stated proof was needed to show Heat Strokes caused my headaches. The fact is I suffered the Heat Strokes because my body was not maintaining fluids regardless how much water I drank. My Heat Strokes were a result of my body not maintaining water, the headaches and dizziness not other way around.”

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 unfitting heat stroke condition meets the criteria prescribed in DoDI 6040.44 for Board purview, and is accordingly addressed below. The other requested conditions (headaches and dizziness) 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 20021115** | | | **VA (~4 Mos. Post-Separation) – All Effective Date 20030107** | | | |
| **Condition** | **Code** | **Rating** | **Condition** | **Code** | **Rating** | **Exam** |
| Recurrent Heat Stroke w/Rhabdomyolysis | 7999-7900 | 0% | Recurrent Heat Stroke w/Rhabdomyolysis | 7999-7900 | 0%\* | 20030521 |
| No Additional MEB/PEB Entries | | | 0% X 4 (Including above) | | |  |
| **Combined: 0%** | | | **Combined: 0%** | | | |

\*No change to heat stroke ratings in subsequent VARDs

ANALYSIS SUMMARY: The Board acknowledges the CI’s contention that suggests ratings should have been conferred for other conditions documented at the time of separation. 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. 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. However the Department of Veterans’ Affairs (DVA), operating under a different set of laws (Title 38, United States Code), is empowered to compensate all service-connected conditions and to periodically reevaluate said conditions for the purpose of adjusting the Veteran’s disability rating should the degree of impairment vary over time.

Recurrent Heat Stroke with Rhabdomyolysis Condition. The CI experienced three episodes of heat injury associated with rhabdomyolysis, injury to muscle cells resulting in release of large amounts of muscle cell contents (enzymes, protein, etc.) the blood stream. Abnormally high body temperatures and very high levels of muscle cell protein in the blood stream can result in significant illness. The first occurred in October 1994 while deployed to Haiti. He was treated with intravenous fluids and evacuated back to his home base. One week later he felt fine, returned to full duty, and experienced no further problems until July 2001. In July 2001, he became ill after a two mile run. His temperature was significantly elevated and blood testing revealed very high levels of muscle enzymes. He was hospitalized for 3 days for treatment. One week later, on 30 July 2001, he was asymptomatic with near normal levels of muscle enzyme on blood testing. The CI again did well and returned to full duty. Army Physical Fitness Test record, dated 4 June 2002 reflected the CI passed his PT test with 70 push-ups, 73 sit-ups and completed the two mile run in 13 minutes, 34 seconds. He sought care the next morning,   
5 June 2002, reporting feeling lightheaded during the morning run and dizzy after the run. He felt better after treatment with intra-venous fluids in the clinic, and was followed as an outpatient. An elevated temperature was not documented and laboratory testing revealed a mild increase in the level of muscle enzymes. Because of the recurrence within a year, the CI was referred for an MEB. On the DD Form 2807, completed by the CI on 23 August 2002, the CI checked “no” regarding problems with headaches. He checked “yes” with regard to dizziness and indicated this occurred with the episodes of heat stroke in block 29. At the time of the MEB narrative summary (NARSUM), performed on 12 September 2002, and MEB NARSUM addendum, performed on 31 October 2002, the CI was asymptomatic, had normal muscle strength on examination, and very mild elevation of muscle enzyme on laboratory testing. Due to the risk for recurrence with the rigors of military duties, particularly in hot environments, the CI was considered not medically qualified for continued service in the Army. At the time of the VA Compensation and Pension (C&P) examination, performed on 21 May 2003, the CI was asymptomatic with a normal physical examination. The Board directs attention to its rating recommendation based on the above evidence. The use of the analogous 7900 code (hyperthyroidism) by the PEB and VA reflects the fact that there is no code specific for heat stroke or rhabdomyolysis. None of the ratable criteria under this diagnostic code were present. Severe heat stroke or rhabdomyolysis can result in residual organ damage such as muscle weakness or kidney function impairment, none of which were present. While the CI was at risk for developing recurrent episodes triggered by strenuous exertion in hot environments, he had three episodes over 8 years (1994, 2001 and 2002) with full recovery and return to normal duty activities in between the first two episodes (MEB was initiated following the third). At the time of the MEB, the CI was asymptomatic with normal strength. The Board considered a rating under the 5021 code (myositis) which requires limitation of motion, painful motion (§4.59) or pain with use (§4.40) for a compensable rating. There was no residual muscle weakness for rating under muscle codes (§4.73) or any other residuals warranting consideration under other diagnostic codes. Board members agreed there were no examination findings supporting a higher rating using this or any other VASRD diagnostic code. 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 recurrent heat strokes with rhabdomyolysis 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 recurrent heat strokes with rhabdomyolysis condition, and 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** |
| Recurrent Heat Strokes With Rhabdomyolysis | 7999-7900 | 0% |
| **COMBINED** | **0%** |

The following documentary evidence was considered:

Exhibit A. DD Form 294, dated 20120602, 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 XXXXXXXXXXXXXXXXX, AR20120019885 (PD201200523)

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 XXXXXXXXXXXXXXXXXXXXXXXX

Deputy Assistant Secretary

(Army Review Boards)

CF:

( ) DoD PDBR

( ) DVA