RECORD OF PROCEEDINGS

PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXXXXXXXXX BRANCH OF SERVICE: Army

CASE NUMBER: PD1200549 SEPARATION DATE: 20010920

BOARD DATE: 20121019

SUMMARY OF CASE: Data extracted from the available evidence of record reflects that this covered individual (CI) was a National Guard PFC/E-3 (95B10, Military Police Trainee), on a temporary tour of active duty for training, medically separated for non-displaced left-sided femoral neck stress fracture. The CI did not improve adequately with treatment to meet the physical requirements of his Military Occupational Specialty (MOS) or satisfy physical fitness standards. He was issued a permanent L3 profile and referred for a Medical Evaluation Board (MEB). The MEB forwarded no other conditions for Physical Evaluation Board (PEB) adjudication. The PEB adjudicated non-displaced left-sided femoral neck stress fracture 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: “Continued pain from arthritis in hips.”

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 left hip condition meets the criteria prescribed in DoDI 6040.44 for Board purview, and is accordingly 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 20010822** | **VA (~5 Mos. Post-Separation) – All Effective Date 20011016\*** |
| **Condition** | **Code** | **Rating** | **Condition** | **Code** | **Rating** | **Exam** |
| Non-Displaced LeftSsided Femoral Neck Stress Fracture | 5022-5003 | 0% | Stress Fracture, Left Hip | 5251 | 0% | 20020209 |
| No Additional MEB/PEB Entries |
| **Combined: 0%** | **Combined: 0%** |

\*VA credited the effective date on the date the CI filed the original disability claim, not the day after DOS 20010920

ANALYSIS SUMMARY:

Left Femoral Neck Stress Fracture Condition. The CI developed left hip pain at the end of March 2001 during military training diagnosed as a left femoral neck stress fracture (compression side only). Although the stress fracture healed by the time of the MEB narrative summary (NARSUM) performed in July 2001, the CI reported pain with running preventing return to training. He was able to walk at his own pace for approximately a mile without significant discomfort. On examination, range-of-motion (ROM) of the left hip was near normal with mild limitations of flexion and internal rotation (flexion 100 degrees, extension 20 degrees, external rotation 70 degrees, internal rotation 10 degrees, and abduction 45 degrees). Gait was normal. By the time of the VA Compensation and Pension (C&P) examination, his left hip pain had continued to improve such that he had only occasional pain with cold weather or on rainy days. The CI reported his left hip injury did not affect his work as a police officer at all. The examination by the C&P examiner was normal documenting symmetric normal painless ROM (flexion 110 degrees, extension 20 degrees, external rotation 60 degrees, internal rotation 30 degrees, and abduction 45 degrees), and normal strength in both hips. Gait was normal. The Board directs attention to its rating recommendation based on the above evidence. The Board noted that ROM examinations did not show any limitation of motion that attained a minimum rating under any VASRD diagnostic codes regarding limitation of motion (5251, 5252, and 5253). The stress fractured was healed and therefore did not attain a minimum rating under VARSD diagnostic codes 5254 or 5255 (non-union, malunion, flail joint). The Board also considered whether provisions of §4.59, §4.40 or §4.45 were applicable. At the time of the narrative summary (NARSUM), the CI was not able to run however by the time of the C&P examination there was no pain with motion and no interference with his job as a policeman. 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 left compression-sided femoral neck stress fracture 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. In the matter of the left compression-sided femoral neck stress fracture condition and IAW VASRD §4.71a, 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** |
| No-Displaced Left-Sided Femoral Neck Stress Fracture | 5022-5033 | 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

 XXXXXXXXXXXXXXXXXX

 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 XXXXXXXXXXXXXXXXX, AR20120019891 (PD201200549)

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 XXXXXXXXXXXXXXXXXXX

 Deputy Assistant Secretary

 (Army Review Boards)

CF:

( ) DoD PDBR

( ) DVA