

RECORD OF PROCEEDINGS
PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXXXXXXXXXXXXXXXX
CASE NUMBER: PD1200651
BOARD DATE: 20121108

BRANCH OF SERVICE: ARMY
SEPARATION DATE: 20020305

SUMMARY OF CASE: Data extracted from the available evidence of record reflects that this covered individual (CI) was an active duty PFC/E-3 (77F/Petroleum Specialist) medically separated for a right hip condition. She developed right hip pain, without a discrete injury, soon after entering the Army. It worsened over time and could not be adequately rehabilitated to meet the physical requirements of her Military Occupational Specialty (MOS) or satisfy physical fitness standards. She was consequently issued a permanent L3 profile and referred for a Medical Evaluation Board (MEB). The condition was forwarded to the Physical Evaluation Board (PEB) as medically unacceptable IAW AR 40-501. No other conditions were submitted by the MEB. The PEB adjudicated the right hip condition as unfitting, rated 10%, referencing the US Army Physical Disability Agency (USAPDA) pain policy. The CI made no appeals, and was medically separated with a 10% disability rating.

CI CONTENTION: The application does not elaborate any specific comments or requests.

SCOPE OF REVIEW: The Board wishes to clarify the scope of its review as defined in 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 rating for the unfitting right hip condition is addressed below; and, no additional conditions are within the DoDI 6040.44 defined purview of the Board. 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 PEB – Dated 20011228			VA – Effective 20020306			
Condition	Code	Rating	Condition	Code	Rating	Exam
Chronic Right Hip Pain	5099-5003	10%	Stress Fracture, Right Hip	5299-5252	10%	STR*
No Additional MEB/PEB Entries			Gastroesophageal Reflux Disease	7399-7346	10%	STR
			Not Service Connected x 1			
Combined: 10%			Combined: 20%			

*STR = Service treatment record. No post-separation VA evaluations in evidence.

ANALYSIS SUMMARY:

Right Hip Condition. The narrative summary (NARSUM) related a 15-month history of right hip pain (length of service was 20 months) with progressive worsening; this, in spite of multiple clinic visits, multiple medication trials, joint injections, and physical therapy. Plain radiographs of the lumbar spine and hip were normal; although, magnetic resonance imaging (MRI) revealed a benign cyst of the right acetabulum (hip socket), and a bone scan reported a suspected healed stress fracture of the right sacral wing. The diagnosis remained non-specific. Service entries do not note any specific injuries, and do not document an abnormal gait or need for assisted ambulatory devices. The CI remained on profiles from January 2001 until separation. The NARSUM noted constant hip pain (unquantified), and inability to climb on vehicles or lift heavy objects. The physical exam (similar to outpatient entries) noted “tenderness over the right hip region diffusely;” and, range-of-motion (ROM) measurements were flexion 100 degrees (normal 125 degrees; minimal compensable 45 degrees), extension 20 degrees (normal), abduction 45 degrees (normal), adduction 45 degrees (normal), and external rotation 20 degrees (normal 45 degrees; minimal compensable 15 degrees). The MEB history and physical documented “increased pain with ROM.”

The Board directs attention to its rating recommendation based on the above evidence. The PEB’s 10% rating analogously to 5003 (degenerative arthritis) was supported by the USAPDA pain policy, but was compliant with VASRD §4.71a criteria. There was no compensable ROM impairment, although VASRD §4.59 (painful motion) was supported to achieve the minimal compensable rating of 10%. The only alternative joint code reasonably considered is 5299-5255 (femur, impairment of), which offers a 20% rating for ‘moderate’ hip disability and 30% for ‘marked’ hip disability. The 5255 code is specific for hip or femur fractures with nonunion or malunion, however; and, thus its analogous application to this case is tenuous. Members also agreed that characterization of the hip disability as ‘moderate’ or worse would require an overly speculative interpretation of the evidence at hand. 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 of the right hip 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 the right hip condition was operant in this case and it was adjudicated independently of that policy by the Board. In the matter of the right hip 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
Chronic Right Hip Pain	5099-5003	10%
	COMBINED	10%

The following documentary evidence was considered:

Exhibit A. DD Form 294, dated 20120605, 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, AR20120021425 (PD201200651)

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

XXXXXXXXXXXXXXXXXXXX
Deputy Assistant Secretary
(Army Review Boards)

CF:
() DoD PDBR
() DVA