

RECORD OF PROCEEDINGS
PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXX
CASE NUMBER: PD1200751
BOARD DATE: 20130124

BRANCH OF SERVICE: MARINE CORPS
SEPARATION DATE: 20030630

SUMMARY OF CASE: Data extracted from the available evidence of record reflects that this covered individual (CI) was an active duty PVT/E-1 (9900/Trainee), medically separated for left femoral neck stress fracture (left hip condition). The CI could not be adequately rehabilitated conservatively to complete recruit training. Due to the prolonged period of healing the CI was referred for a Medical Evaluation Board (MEB). The MEB forwarded no other conditions for Physical Evaluation Board (PEB) adjudication. The PEB adjudicated the left hip condition as unfitting, rated 20%, with application of the Veterans Affairs Schedule for Rating Disabilities (VASRD). The CI made no appeals, and was medically separated with a 20% disability rating.

CI CONTENTION: "In 2003 I was medically discharged from the Marine Corp. with a disability rating of 20% and a finding of a left femoral neck stress fracture at 25% across the bone. After my assessment with the VA they rated me at 10% with a finding of Tendonitis. Since 2003 I have always had issues with my hip. I have to limit my travel time because I cannot sit for too long without pain, which is typically no more than 30 minutes. My exercises have to be very limited, I cannot lift over 20-25 lbs. without pain thereafter and the following day as well as walking excess of a quarter mile. I have been in to the VA consistently since 2003 complaining of the pains I do have in my hip, but have never received a clear diagnosis. In times of weather change I have a constant aching in my hip. I have recently had to quit my job to go to an office type setting where I am not required to do any lifting, but still have issues with sitting too long. I have a daughter and my hip has limited my ability to do certain activities with her as well as holding her during any times of pain. I have just recently in July 2011 asked to be reevaluated by the VA they have just approved me in April 2012, but only raised my rating to 20% with the same finding of Tendonitis but with limited flexion. Since 2003 I have dramatically had to alter my life around my hip with what I can and cannot do, and have had to just deal with the pains that came with everyday living."

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. 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 Board for Correction of Naval Records.

RATING COMPARISON:

Service PEB – Dated 20030430			VA (3 Mos. Post-Separation) – All Effective Date 20030701			
Condition	Code	Rating	Condition	Code	Rating	Exam
Left Femoral Neck Stress Fracture	5003-5255	20%	Iliotibial Band Tendonitis, Hist of S/P Left Femoral Stress Fx	5024-5252	10%*	20030929
Combined: 20%			Combined: 10%			

*Increased to 20% effective 20110620

ANALYSIS SUMMARY: The Board acknowledges the sentiment expressed in the CI's application, i.e., that there should be additional disability assigned for conditions which will predictably worsen over time. It is a fact, however, that the Disability Evaluation System has neither the role nor the authority to compensate members for anticipated future severity or potential complications of conditions resulting in medical separation. This role and authority is granted by Congress to the Department of Veterans Affairs.

Left Hip Condition. The CI complained of left hip pain after 12 days of recruit training. She was treated with rest for a confirmed left femoral neck stress fracture on both bone scan and magnetic resonance imaging (MRI). After 5 weeks of rest she was challenged with a walk-run program and on day 3 she noted an increase of left hip pain, a 7 of 10 in intensity. Repeat MRI imaging revealed findings consistent with a femoral neck stress fracture. The non-medical assessment corroborated her medical condition and her inability to perform any assigned duties. 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.

DOS 20030630

Left Hip (Thigh) ROM	MEB ~3 Mo. Pre-Sep	VA C&P ~3 Mo. Post-Sep
Flexion (0-125°)	120°	105,103,102,102°
Extension (0-20°)	30°	10,10,8,7°
External Rotation (0-45°)	30°	30,32,30,30°
Abduction (0-45°)	#°	40.38,38,37°
Adduction (0-45°)	#°	20,18,18,17°
Comment		
§4.71a Rating*	10%	10%

*Conceding §4.59 painful motion

The MEB physical exam demonstrated painful motion with external rotation, a double leg stand and with FABER testing (provocative test for hip pathology). The neuromuscular findings were normal. The exam was silent to gait. The examiner cited the findings of the most proximate MRI in March which revealed a femoral neck stress fracture without significant interval change from the January MRI exam. The examiner opined she may require a prolonged period of crutches, partial weight bearing and needed close follow-up to document healing and she likely would recover. At the VA Compensation and Pension (C&P) exam the CI reported left hip pain, 5 of 10 in intensity which was aggravated with walking up to a mile and sitting for 2 hours, relieved with aspirin, heat or changing positions and did not affect her activities of daily living. The C&P exam demonstrated normal gait, ambulation and squat maneuver, decreased ROM with abduction, no instability or locking and normal neuromuscular findings. Plain radiographs of the left femur appeared intact and grossly unremarkable. The examiner diagnosed status post (s/p) stress fracture of the left femoral neck, resolved and Iliotibial band tendonitis.

The Board directs attention to its rating recommendation based on the above evidence. This rating includes consideration of functional loss IAW VASRD §4.10 (Functional impairment), §4.40 (Functional loss), §4.45 (DeLuca), and §4.59 (Painful motion). While the MEB exam was not completely compliant with VASRD §4.46 (Accurate measurement) and the ratable data in either exam were not similar, this did not bear on the rating. The PEB and VA chose different coding options for the condition, but this did not bear on rating both were IAW §4.71a—Schedule of ratings—musculoskeletal system. The PEB assigned a generous rating of 20% with an analogous code under 5255 (femur, impairment of, malunion of) for the presence of a stress fracture on X-rays with moderate hip disability. The VA assigned a rating of 10% with the analogous code 5024 (Tenosynovitis) with 5252 (Thigh, limitation of flexion of) for limitation of flexion motion with fatigue, reduced strength and reported increasing pain with prolonged

walking or sitting. The Board acknowledges the X-ray evidence revealed a healed stress fracture therefore the VA could not consider coding with the 5255 code and further notes the VA ratable data allows the minimum compensable 10% rating for painful motion. The Board considered the 30% rating under 5255 code and members agreed the evidence does not support marked hip disability at the time of separation. 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 left 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. 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 left 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
Left Femoral Neck Stress Fracture	5003-5255	20%
	COMBINED	20%

The following documentary evidence was considered:

- Exhibit A. DD Form 294, dated 20120608, w/atchs
- Exhibit B. Service Treatment Record
- Exhibit C. Department of Veterans' Affairs Treatment Record

XXXXXX
Director
Physical Disability Board of Review

MEMORANDUM FOR DIRECTOR, SECRETARY OF THE NAVY COUNCIL OF REVIEW
BOARDS

Subj: PHYSICAL DISABILITY BOARD OF REVIEW (PDBR) RECOMMENDATIONS

Ref: (a) DoDI 6040.44
(b) CORB ltr dtd 08 Feb 13

In accordance with reference (a), I have reviewed the cases forwarded by reference (b), and, for the reasons provided in their forwarding memorandum, approve the recommendations of the PDBR that the following individual's records not be corrected to reflect a change in either characterization of separation or in the disability rating previously assigned by the Department of the Navy's Physical Evaluation Board:

- xx former USMC
- xx former USMC
- xx former USN
- xx former USMC
- xx former USMC
- xx former USN

xxxxx
Assistant General Counsel
(Manpower & Reserve Affairs)