

RECORD OF PROCEEDINGS
PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XX
CASE NUMBER: PD1201029
BOARD DATE: 20130201

BRANCH OF SERVICE: MARINES
SEPARATION DATE: 20030715

SUMMARY OF CASE: Data extracted from the available evidence of record reflects that this covered individual (CI) was an active duty LCpl/E-3 (0861/Artillery Scout Observer), medically separated for irritable bowel syndrome (IBS), diarrhea predominant. After initial onset of symptoms in early 2002 he was treated with medication and surgery. Despite this course of treatment the CI could not be adequately rehabilitated to meet the requirements of his Military Occupational Specialty (MOS) or physical fitness standards. He was consequently placed on limited duty and referred for a Medical Evaluation Board (MEB). The MEB made four diagnoses; 1) IBS, diarrhea predominant; 2) Chronic functional abdominal pain; 3) Chronic diarrhea; and 4) Status post (s/p) hemorrhoidectomy with subsequent fecal and urinary urgency. No other conditions were submitted by the MEB. The Physical Evaluation Board (PEB) adjudicated "Irritable bowel syndrome, diarrhea predominant" as Category I (unfitting) and rated 0%. The PEB determined MEB Diagnoses 2 and 3 (Chronic functional abdominal pain and chronic diarrhea) were Category II (conditions that contribute to the unfitting condition) and Diagnosis 4 (s/p hemorrhoidectomy with fecal and urinary urgency) was Category III (not separately unfitting and do not contribute to unfitting conditions). The CI made no appeals, and was medically separated with that 0% disability rating.

CI CONTENTION: "Medical condition never solved, only treatment for symptoms. I have and continue to have incurred additional medical expenses for additional medical evaluation" [sic].

SCOPE OF REVIEW: The Board wishes to clarify that 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 IBS is addressed below. MEB diagnoses 2, 3, and 4 (chronic functional abdominal pain, chronic diarrhea, and s/p hemorrhoidectomy with fecal and urinary urgency), which were adjudicated as not unfitting by the PEB, are likewise 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 Board for the Correction of Naval Records.

RATING COMPARISON:

Service PEB – Dated 20030515			VA (6 Mo. Post-Separation) – Effective 20030716			
Condition	Code	Rating	Condition	Code	Rating	Exam
Irritable bowel syndrome, diarrhea predominant	7319	0%	Irritable bowel syndrome (claimed as abdominal pains, chronic diarrhea and transverse colon)	7319	10%	20031117
Chronic diarrhea	Cat II					
Chronic functional abdominal pain	Cat II					
Status post hemorrhoidectomy with subsequent fecal and urinary urgency	Cat III		S/P Hemorrhoidectomy	7336	0%	20031113
↓No Additional MEB/PEB Entries↓			Bilateral Hearing Loss	6100	NSC	20031113
Combined: 0%			Combined: 10%			

ANALYSIS SUMMARY: The abdominal symptoms, disability and rating of the chronic IBS with diarrhea predominant, chronic abdominal pain and the fecal and urinary urgency following hemorrhoidectomy were not separable for rating purposes and are combined in a single analysis section below. The hemorrhoid condition itself is discussed separately IAW VASRD §4.114, Schedule of ratings—digestive system.

Abdominal Condition (Including Chronic irritable bowel syndrome with diarrhea predominant, chronic abdominal pain, and fecal and urinary urgency s/p hemorrhoidectomy). The narrative summary (NARSUM), (3 months prior to separation) noted a chief complaint of chronic soft bowel movements since Feb 2002 without pain and with scant blood. Abdominal CT scan, blood and stool evaluations, esophagogastroduodenoscopy (EGD), small bowel follow through, colonoscopy with biopsy were essentially normal. Despite treatment with medications, the member still noted increased frequency of stools (3-5 times/day) and abdominal discomfort with exercise. His hematochezia (scant blood in stools) resolved after the hemorrhoidectomy surgery 5 months prior to separation. Following surgery the CI complained of occasional fecal incontinence and urgency as well as urinary incontinence and urgency. He tried to increase his physical exertion level at several points in the 6 months prior to his MEB and each attempt was met with increasing abdominal discomfort and stool frequency. Physical examination was without abnormalities including abdominal examination which was noted to show “soft, nontender, nondistended, normoactive bowel sounds.” Follow-up treatment notes found no recurrent hemorrhoids.

The VA Compensation and Pension (C&P) exam (6 months after separation) indicated complaints of fecal urgency especially with physical exertion and that the CI was taking several medications for this condition. Abdominal examination was normal and there was good sphincter tone with no abnormalities noted at the rectal area. There was no evidence of recurrent hemorrhoids. The examiner’s diagnosis was IBS with chronic functional abdominal pain, and occasional diarrhea under control with intestinal sedatives. The Board noted that page 1 of the C&P exam was missing from the record and attempts to retrieve this information were made. The VA rating determination supplied the missing history in adequate detail.

The Board directs attention to its rating recommendation based on the above evidence. Both the PEB (0%) and VA (10%) rated the CI’s abdominal conditions under the disability code 7319, Irritable colon syndrome (spastic colitis, mucous colitis, etc.). The Board deliberated on the severity and frequency of the CI’s bowel function and abdominal distress. Although the NARSUM indicated fecal and urinary incontinence on occasion, it was referenced in context of post-operatively and there were no other notes indicating continued incontinence. The VA evidence also indicated decreased symptoms post-separation. There was insufficient evidence for either severe symptoms or “more or less constant abdominal distress” (40%). The Board considered that the disability picture in the treatment records more closely approached the level of “Moderate; frequent episodes of bowel disturbance with abdominal distress (10%) than the “Mild; disturbances of bowel function with occasional episodes of abdominal distress” (0%) level.

After due deliberation, considering all of the evidence and mindful of VASRD §4.7 (higher of two evaluations), the Board recommends a disability rating of 10% for the IBS with chronic abdominal pain and diarrhea condition.

Contended PEB Condition (Status post hemorrhoidectomy with subsequent fecal and urinary urgency). Any abdominal disability from this condition was appropriately considered as a comprehensive abdominal condition under the CI’s unfitting 7319 abdominal condition discussed above. The Board’s main charge with respect to the hemorrhoidectomy condition is an assessment of the fairness of the PEB’s determinations that it was not unfitting or separately compensable. The Board’s threshold for countering fitness determinations is higher than the

VASRD §4.3 (reasonable doubt) standard used for its rating recommendations, but remains adherent to the DoDI 6040.44 “fair and equitable” standard. The hemorrhoid condition (s/p hemorrhoidectomy) was reviewed by the action officer and considered by the Board. The CI had surgical removal of internal hemorrhoids and there was no evidence of post-surgery recurrence in the treatment records or proximate VA records. There was good sphincter tone. There was insufficient evidence that the condition significantly interfered with satisfactory duty performance, aside from as it was considered in the abdominal condition as noted above. After due deliberation in consideration of the preponderance of the evidence, the Board concluded that there was insufficient cause to recommend a change in the PEB fitness determination for the s/p hemorrhoidectomy 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 chronic abdominal pain condition (encompassing IBS, diarrhea predominant; including diarrhea and abdominal pain, with fecal and urinary urgency s/p hemorrhoidectomy), the Board by a vote of 2:1 vote recommends a disability rating of 10%, coded 7399-7319, IAW VASRD §4.114. The single voter for dissent (who recommended no change in the PEB determination) did not elect to submit a minority opinion. 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
Irritable bowel syndrome, diarrhea predominant; including diarrhea and abdominal pain, with fecal and urinary urgency s/p hemorrhoidectomy	7399-7319	10%
	COMBINED	10%

The following documentary evidence was considered:

- Exhibit A. DD Form 294, dated 20120615, w/atchs.
- Exhibit B. Service Treatment Record.
- Exhibit C. Department of Veterans Affairs Treatment Record.

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Acting Director
Physical Disability Board of Review

MEMORANDUM FOR DEPUTY COMMANDANT, MANPOWER & RESERVE AFFAIRS

Subj: PHYSICAL DISABILITY BOARD OF REVIEW (PDBR) RECOMMENDATIONS

Ref: (a) DoDI 6040.44
(b) PDBR ltr dtd 11 Feb 13 ICO
(c) PDBR ltr dtd 7 Feb 13 ICO
(d) PDBR ltr dtd 27 Feb 13 ICO
(e) PDBR ltr dtd 7 Mar 13 ICO

1. Pursuant to reference (a) I approve the recommendations of the Physical Disability Board of Review set forth in references (b) through (d).
2. The official records of the following individuals are to be corrected to reflect the stated disposition:
 - a. former USMC: Disability separation with a final disability rating of ten (10) percent (increased from zero percent) with entitlement to disability severance pay effective 5 April 2002.
 - b. former USMC: Disability retirement with a final disability rating of 30 percent (increased from 20 percent) with retroactive placement on the Permanent Disability Retired List effective 31 January 2002.
 - c. former USMC: Disability separation with a final disability rating of ten (10) percent (increased from 0 percent) with entitlement to disability severance pay effective 15 July 2003.
 - d. former USMC: Disability separation with a final disability rating of 40 percent (increased from 20 percent) with retroactive placement on the Permanent Disability Retired List effective 31 July 2003.
3. Please ensure all necessary actions are taken, included the recoupment of disability severance pay if warranted, to implement these decisions and that subject members are notified once those actions are completed.

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Assistant General Counsel
(Manpower & Reserve Affairs)