

RECORD OF PROCEEDINGS  
PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXXXXXXXXXXXXXXXX  
CASE NUMBER: PD1201058  
BOARD DATE: 20130123

BRANCH OF SERVICE: ARMY  
SEPARATION DATE: 20020622

**SUMMARY OF CASE:** Data extracted from the available evidence of record reflects that this covered individual (CI) was an active duty Soldier, SPC/E-4, (92A/Automated Logistical Specialist), medically separated for chronic low back pain (LBP) with lumbar degenerative disk disc disease (DDD). The CI did not improve adequately with treatment to meet the physical requirements of her Military Occupational Specialty (MOS) or satisfy physical fitness standards. She was issued a permanent L3 profile and referred for a Medical Evaluation Board (MEB). The MEB forwarded lumbar DDD with LBP as medically unacceptable IAW AR 40-501. The MEB forwarded no other conditions for Physical Evaluation Board (PEB) adjudication. The PEB adjudicated chronic LBP with lumbar DDD as unfitting, rated 10%, with application of the Veteran’s Affairs Schedule for Rating Disabilities (VASRD) and the Department of Defense Instruction (DoDI) 1332.39. The CI made no appeals, and was medically separated with a 10% disability rating.

**CI CONTENTION:** The CI wrote: “Army rated/VA rated 50% day after discharge.”

**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. The remaining conditions rated by the VA at separation and listed on the DD Form 294 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 PEB – Dated 20020311			VA (2 Mos. Pre-Separation) – All Effective Date 20020623			
Condition	Code	Rating	Condition	Code	Rating	Exam
Chronic LBP, w/Lumbar DDD	5299-5295	10%	DDD, L-Spine, L4-5, L5-S1 with Herniated Nucleus Pulposus	5293	10%	20020417
↓No Additional MEB/PEB Entries↓			Postoperative Residuals, Carpal Tunnel Syndrome Release, R Wrist (Dominant)	8599-8515	10%	20020417
			Carpal Tunnel Syndrome, L Wrist (Non-Dominant) w/L Pronator Teres Syndrome	8599-8515	10%	20020417
			Plantar Fasciitis, R Foot	5276	10%	20020417
			Patellofemoral Pain Syndrome, R Knee	5024	10%	20020417
			Patellofemoral Pain Syndrome, L Knee	5024	10%	20020417

	0% X 2 / Not Service-Connected x 1	20020417
<b>Combined: 10%</b>	<b>Combined: 50%</b>	

ANALYSIS SUMMARY:

Chronic Low Back Pain. The 2002 Veteran Administration Schedule for Rating Disabilities (VASRD) coding and rating standards for the spine were in effect at the time of separation. IAW DoDI 6040.44, this Board must consider the appropriate rating for the CI's back condition at separation based on the VASRD standards in effect at that time. The condition began during basic training in 1997 after falling while running. X-rays were normal, but a magnetic resonance imaging (MRI) demonstrated multi-level DDD with small disc herniations at L4-5 and L5-S1 causing mild to moderate spinal stenosis at these levels. Ongoing physical therapy (PT) and epidural steroid injections (ESI) were not helpful. A lumbar discogram in June 2001 reproduced LBP, and surgery was considered but not performed. The narrative summary (NARSUM) examiner on 18 September 2001 (9 months prior to separation) indicated that intermittent mild sciatic pain occurred. She could not tolerate high impact activity. Examination revealed a normal gait and "full range of lumbar motion." Mild tenderness of the low lumbar spine was present. Muscle strength, sensation and deep tendon reflexes (DTR) were normal. An outpatient examination on 21 November 2001 (7 months prior to separation) documented a negative straight leg raise (SLR) test and normal muscle strength, sensation and DTRs. An undated outpatient note in 2002 indicated that LBP was constant and radiated up the back. There were no lower extremity sensory disturbances. Examination revealed a normal gait, no tenderness and a negative SLR. A back brace was recommended for work. At the VA Compensation and Pension (C&P) exam on 17 April 2002 (2 months prior to separation), the CI reported constant LBP that was aggravated by normal daily activity. She used narcotic medication for pain. Examination revealed a normal posture and gait. Range-of-motion (ROM) assessment showed flexion of 90 degrees (normal is 90 degrees by current standards), extension 30 degrees (normal 30 degrees), lateral flexion 35 degrees each (30 degrees normal) and rotation 30 degrees (30 degrees normal). Pain was present during flexion, right lateral flexion and right rotation. SLR testing was negative for radiating pain. DTRs and sensation were intact. At a later C&P exam on 23 June 2003 (a year after separation), the CI reported constant low back dull, aching pain. While walking, standing, squatting or bending over she experienced intermittent shooting pain to the legs that lasted a few seconds. She sometimes used a back brace. Her back condition made sleep difficult. Her condition did not result in missed work as a correctional officer that entailed 12 hour shifts. There were no incapacitating episodes during the preceding year. Examination revealed normal posture and gait. Lumbar flexion was 70 degrees, extension 55 degrees, flexion 40 degrees bilaterally and rotation 35 degrees bilaterally. There was no spasm or tenderness. Neurologic exam of the lower extremities was normal.

The Board must correlate the above clinical data with the 2001 rating schedule which, for convenience, is excerpted below:

<b>5292 Spine, limitation of motion of, lumbar:</b>	
Severe .....	40
Moderate .....	20
Slight .....	10

**5293** Intervertebral disc syndrome:

Pronounced; with persistent symptoms compatible with sciatic neuropathy with characteristic pain and demonstrable muscle spasm, absent ankle jerk, or other neurological findings appropriate to site of diseased disc, little intermittent relief .....	60
Severe; recurring attacks, with intermittent relief.....	40
Moderate; recurring attacks .....	20
Mild .....	10
Postoperative, cured .....	0

**5295** Lumbosacral strain:

Severe; with listing of whole' spine to opposite side, positive Goldthwaite's sign, marked limitation of forward bending in standing position, loss of lateral motion with osteo-arthritic changes, or narrowing or irregularity of joint space, or some of the above with abnormal mobility on forced motion .....	40
With muscle spasm on extreme forward bending, loss of lateral spine motion, unilateral, in standing' position .....	20
With characteristic pain on motion .....	10
With slight subjective symptoms only .....	0

The PEB cited “characteristic pain on motion” in support of the 10% rating under an analogous 5295 code, while the VA also arrived at a 10% rating under the 5293 code for “mild” symptoms associated with intervertebral disc syndrome. The Board agreed that elements of the 20% rating under these codes were not present on any of the cited examinations. Board members debated if any of the documented examinations met the requirements for the 20% level under the 5292 code, but agreed that ROM limitation in evidence was no more than “slight.” 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 chronic LBP condition.

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**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 DoDI 1332.39 for rating chronic LBP was operant in this case and the condition was adjudicated independently of that instruction by the Board. In the matter of the chronic LBP 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.

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**RECOMMENDATION:** The Board, therefore, recommends that there be no recharacterization of the CI's disability and separation determination, as follows:

<b>UNFITTING CONDITION</b>	<b>VASRD CODE</b>	<b>RATING</b>
Chronic Low Back Pain with Lumbar Degenerative Disc Disease	5299-5295	10%
	<b>COMBINED</b>	<b>10%</b>

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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

XXXXXXXXXXXXXXXXXXXXX, DAF  
Acting Director  
Physical Disability Board of Review

SFMR-RB

MEMORANDUM FOR Commander, US Army Physical Disability Agency  
(TAPD-ZB / XXXXXXXX), 2900 Crystal Drive, Suite 300, Arlington, VA 22202-3557

SUBJECT: Department of Defense Physical Disability Board of Review Recommendation  
for XXXXXXXXXXXXXXXXXXXX, AR20130003781 (PD201201058)

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

XXXXXXXXXXXXXXXXXXXXX  
Deputy Assistant Secretary  
(Army Review Boards)