

RECORD OF PROCEEDINGS
PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXXXXXXXX
CASE NUMBER: PD1201063
BOARD DATE: 20130201

BRANCH OF SERVICE: ARMY
SEPARATION DATE: 20021129

SUMMARY OF CASE: Data extracted from the available evidence of record reflects that this covered individual (CI) was an active duty SPC/E-4 (71L/Admin Specialist), medically separated for back pain and left wrist pain. These conditions could not be rehabilitated for the CI to improve adequately to meet the physical requirements of her Military Occupational Specialty or satisfy physical fitness standards. She was issued a permanent U3L4 profile and referred for a Medical Evaluation Board (MEB). The MEB forwarded no other conditions for Informal Physical Evaluation Board (IPEB) adjudication. The IPEB adjudicated the back pain and left wrist pain conditions as unfitting, rated 10% and 0%, with application of the Veteran’s Affairs Schedule for Rating Disabilities (VASRD) and likely application of the US Army Physical Disability Agency (USAPDA) pain policy. The CI did not agree with the IPEB’s findings and appealed to the Formal PEB (FPEB). The FPEB affirmed the IPEB’s findings; and was then medically separated with a 10% disability rating.

CI CONTENTION: “All injuries were not properly evaluated.”

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 back pain and left wrist pain conditions as requested for consideration meet the criteria prescribed in DoDI 6040.44 for Board purview; and, are 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 service Board for Correction of Military Records.

RATING COMPARISON:

Service FPEB (Review) – Dated 20020821			VA (~8 Mos. Post-Separation) – All Effective Date 20021130			
Condition	Code	Rating	Condition	Code	Rating	Exam
Back Pain	5299-5295	10%	Lumbar Strain	5295	10%*	20030717
Left Wrist Pain	5003	0%	Residuals, Fracture, Left Distal Radius	5215	0%	20030717
↓ No Additional MEB/PEB Entries ↓			Residuals, Right Hip Fracture	5299-5255	10%	20030717
			0% X 3			20030717
Combined: 10%			Combined: 20%**			

*Increased to 20% effective 20081128 (see 20100225 VARD).

**Additional non-PEB conditions added to increase overall rating to 60% effective 20081128 (see 20100225 VARD).

ANALYSIS SUMMARY: The Board wishes to clarify that it is subject to the same laws for service disability entitlements as those under which the Disability Evaluation System (DES) operates.

While the DES considers all of the member's medical conditions, compensation can only be offered for those medical conditions that cut short a member's career, and then only to the degree of severity present at the time of final disposition. However the Department of Veterans Affairs operating under a different set of laws (Title 38, United States Code), is empowered to compensate all service-connected conditions and to periodically reevaluate said conditions for the purpose of adjusting the Veteran's disability rating should the degree of impairment vary over time.

Back Pain Condition. The 2002 Veteran Administration Schedule for Rating Disabilities (VASRD) coding and rating standards for the spine, which were in effect at the time of separation, were changed to the current §4.71a rating standards in 2004. The pre-2004 ratings were based on a judgment as to whether the disability was mild, moderate or severe. The 2004-to-current standards are grounded in range-of-motion (ROM) measurements. 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 the time of separation (i.e. pre-2004 standards). The medical record indicates a history of episodic low back pain (LBP) beginning in approximately 1998. Progressive worsening of pain in the buttocks with radiation to the right leg led to an inability to run or wear professional gear. X-rays and bone scans showed evidence of inflammation of the sacroiliac joints. Multiple anti-inflammatory medications and physical therapy were not helpful for her pain. At the MEB exam on 15 April 2002 (7 months prior to separation), the CI reported numbness and tingling in both lower extremities with standing or running. The narrative summary (NARSUM) examination on 18 April 2002 (7 months prior to separation) reported "full" ROM of the spine. Forward flexion was noted to be "10 inches from the floor." Straight leg raise testing (SLR) was negative and muscle strength of the lower extremities was normal. Tenderness of the sacroiliac regions was present. At the VA Compensation and Pension (C&P) exam on 17 July 2003 (8 months after separation), the CI reported a 4 year history of back pain with radiation to the right leg. Severity was reported to be a 6 on a 0-10 scale, and the CI claimed to have been bedridden and incapacitated 100 times for a period of one to 2 days during the preceding year due to back or hip pain. Physical exam reported limping on the right leg. Lumbar flexion was 90 degrees (90 degrees is normal by current standards), extension 25 degrees (30 degrees normal by current standards), and lateral flexion to 25 degrees bilaterally (30 degrees normal). SLR was "positive at 70 degrees on the right" although location of pain was not specified. Deep tendon reflexes (DTR) were equal except for a slightly diminished left Achilles reflex. A magnetic resonance imaging (MRI) study of the lumbar spine showed no abnormalities. The Board must correlate the above clinical data with the 2001 rating schedule which, for convenience, is excerpted below:

5292 Spine, limitation of motion of, lumbar:	
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

5294 Sacro-iliac injury and weakness:

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

Although not specifically noted in the NARSUM physical examination, “characteristic pain on motion” supporting the PEB’s 10% rating under the 5295 code is reasonably conceded given the CI’s history and symptoms of lifestyle limiting pain at the time of separation. The VA’s initial rating used the same code, which was subsequently changed to reflect newer coding options; but, this did not result in a change in the VA’s 10% rating. Board members agreed that the evidence did not support a higher rating under the 5295 code, but debated if any of the documented examinations met the requirements for the 20% level under the 5292 code. However, it was decided that ROM in evidence did not reflect the “moderate” descriptor. Finally, the Board debated a rating under the 5293 code but concluded this was a poor fit for the pathology in this case. 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 back pain condition.

Left Wrist Pain Condition. A left distal radius fracture in May 2000 required closed reduction and percutaneous pinning for stabilization. Despite uneventful healing and occupational therapy, ongoing pain caused activity limitation. There were two goniometric 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.

Left Wrist ROM	NARSUM ~7 Mos. Pre-Sep	VA C&P ~8 Mos. Post-Sep
Dorsiflexion (0-70°)	90°	80°
Palmar Flexion (0-80°)	80°	80°
Ulnar Deviation (0-45°)	“Full”	30°
Radial Deviation (0-20°)		30°
Forearm Pronation (0-80°)		--
Forearm Supination (0-85°)		--
Comment		+minimal tenderness
§4.71a Rating	10%	0%

At the MEB exam, the CI indicated that the left wrist was painful in cold weather and that she was unable to lift weight with her left arm. Use of a wrist brace was also annotated, although it was not specified if this was a current or past requirement. Examination made no mention of a wrist brace. At the NARSUM exam, the right hand dominant CI reported the presence of daily pain. She could not perform repetitive tasks and pushups. Pain was reported to occur with pronation and supination. The physical examination noted the ROM in the above table, but stated that the 80 degrees of palmar flexion represented a loss of 10 degrees compared to her

right wrist. X-rays of the left wrist showed minimal degenerative changes. At the VA Compensation and Pension (C&P) exam, the CI reported that since treatment for the wrist injury, “she has had no symptoms.” Physical examination revealed punctuate scars on the medial and lateral aspect of the left wrist at the site of previous pin placements. Tenderness was absent and grip strength was good. An X-ray was normal. The assessment was “no residual disability.”

The Board directs attention to its rating recommendation based on the above evidence. The PEB assigned a 0% rating under a 5003 code (degenerative arthritis). Board members agreed that the ROM data and other clinical findings at the VA exam were consistent with the service exams and did not support a compensable disability rating. While a 10% rating under §4.40 is suggested by the history reported to the examiners and by the permanent profile restrictions, the statement to the VA examiner by the CI that she had been asymptomatic since treatment for her injury carried significant weight in the Board’s deliberation. Therefore, the Board concluded that the clinical picture was most accurately described by the 0% rating. 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 wrist pain 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 back pain and wrist pain was operant in this case and the condition was adjudicated independently of that policy by the Board. In the matter of the back pain condition and IAW VASRD §4.71a, the Board unanimously recommends no change in the PEB adjudication. In the matter of the left wrist pain 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
Back Pain	5299-5295	10%
Left Wrist Pain	5003	0%
	COMBINED	10%

The following documentary evidence was considered:

- Exhibit A. DD Form 294, dated 20120614, w/atchs
- Exhibit B. Service Treatment Record
- Exhibit C. Department of Veterans’ Affairs Treatment Record

XXXXXXXXXXXXXXXXXXXX, DAF
Acting Director
Physical Disability Board of Review

SFMR-RB

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

SUBJECT: Department of Defense Physical Disability Board of Review Recommendation
for XXXXXXXXXXXXXXXXXXXXXXXX, AR20130003779 (PD201201063)

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

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Deputy Assistant Secretary
(Army Review Boards)