

RECORD OF PROCEEDINGS
PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXXXXXXXXXXXXXXXX
CASE NUMBER: PD1201099
BOARD DATE: 20130125

BRANCH OF SERVICE: ARMY
SEPARATION DATE: 20040309

SUMMARY OF CASE: Data extracted from the available evidence of record reflects that this covered individual (CI) was a mobilized Reserve SPC/E-4 (88M/Driver) medically separated for hypertension. Increased blood pressure was first identified in early 2003 and despite extensive testing and medication the CI could not be adequately rehabilitated to meet the requirements of her Military Occupational Specialty or physical fitness standards. She was consequently issued a permanent P3 profile and referred for a Medical Evaluation Board (MEB). The blood pressure condition, characterized as “Uncontrollable essential hypertension,” was forwarded to the Physical Evaluation Board (PEB) as medically unacceptable IAW AR 40-501. Two other conditions (identified in the rating chart below) were addressed by the MEB and forwarded as medically acceptable. The PEB adjudicated “Hypertension, with diastolic pressure predominantly 110 or more” as unfitting and rated 20%. The CI made no appeals and was medically separated with that disability rating.

CI CONTENTION: “At the time of my discharge my blood pressure was extremely high and after several attempts with different medications my pressure still had not been controlled + migraine headaches were unbearable therefore I could not perform my duties.”

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 hypertension is addressed below. The requested condition of migraine headaches, which was determined to be medically acceptable by the MEB, is 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 service Board for Correction of Military Records.

RATING COMPARISON:

Service PEB – Dated 20040205			VA (9 Mo. Post-Separation) - 20050307 VARD			
Condition	Code	Rating	Condition	Code	Rating	Exam
Hypertension...	7101	20%	Hypertension	7101	10%*	20041201
Chronic Daily Headaches	Medically Acceptable		Migraine headaches	8100	30%*	20041201
Mild open angle glaucoma	Medically Acceptable		NSC x 2			20041201
No Additional MEB/PEB Entries			Combined: 30%*			
Combined: 20%						

* Hypertension (7101) increase to 40% and Migraine (8100) increased to 50% effective 20040310 from DRO rating of 20060416 and exams of 20060103 (combined 70%)

ANALYSIS SUMMARY:

Hypertension Condition. The CI was diagnosed with hypertension after having severe headaches and chest pain. Despite extensive evaluations and multiple medication regimes her hypertension and headaches continued. She was seen numerous times for emergency department treatments and both the narrative summary (NARSUM) and VA exam histories detail the evaluation for underlying causes of malignant hypertension including cardiac and renal artery catheterization, echocardiogram and head CT scan. The NARSUM, PEB-requested multi-day blood pressure check, the service treatment record (STR) and VA records and initial VA Compensation and Pension (C&P) exam (9 months after separation) proximate to separation demonstrated diastolic blood pressures predominately above 110, but very rarely up to 120. Blood pressure was poorly controlled, but there was no evidence of hypertensive heart disease, or renal pathology prior to separation. The C&P exam performed 22 months after separation demonstrated worsening of the CI's hypertension and numerous occasions when diastolic pressure was 120 or more on 12 March 2004 (3 days after separation), 30 September 2004 and eight times between April 2005 and September 2005.

The Board directs attention to its rating recommendation based on the above evidence. The Board considered that the evidence indicated post-separation worsening of the CI's hypertension and there was insufficient evidence of diastolic pressure predominantly 120 or more proximate to separation to support a higher rating. 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 of the hypertension condition. The Board concluded therefore that this condition could not be recommended for additional disability rating.

Contended PEB Conditions (Chronic Daily Headaches). The Board's main charge with respect to the headache condition is an assessment of the fairness of the PEB's implied determination that it was not unfitting; the PEB did not specifically address the MEB's "medically acceptable" assessment of the headache condition. The Board's threshold for countering fitness determinations is higher than the VASRD §4.3 (Resolution of reasonable doubt) standard used for its rating recommendations, but remains adherent to the DoDI 6040.44 "fair and equitable" standard. The P3 profile listed malignant hypertension, and the headache condition was not separately specified in the profile. The commander's statement mentioned malignant hypertension, but headaches were not separately implicated in the commander's statement. However, the NARSUM examiner indicated "based off of the (CI's) inpatient, ER, outpatient and specialty evaluations, this soldier was found to not meet AR 40-501 criteria for her...chronic daily headaches." From March through July 2003 the CI was prescribed migraine headache relief medications, such as Percocet, Fentanyl, Mobic, Methocarbamol, Morphine, Maxalt, and Lmitrex. However, after this period, medication treatment for the chronic daily heads was limited due to the uncontrolled hypertension condition.

The CI's headache condition had onset with the CI's hypertension condition and neurologic specialist evaluation indicated the CI's continued ongoing headaches was "diagnosed as migraine with transformation into rebound headaches." The NARSUM examiner stated "The (CI) was not treated with migraine medications because I felt that her headaches were most likely due to her uncontrolled hypertension and not from migraine as well as triptan medications being contraindicated in the presence of uncontrolled hypertension." The preponderance of the treatment notes for hypertension included the complaint of daily and severe headaches. There were three emergency room visits for hypertension with other symptoms in the year prior to separation. The very significant profile restrictions for the malignant hypertension condition and examiner's clearly relating the headaches to the hypertension made it difficult to separate specific functional restrictions for hypertension or headaches due to hypertension. The STR did not provide sufficient detail of the severity and

frequency of the CI's headaches aside from "chronic daily," "10/10," "9," and "severe headache" to determine a precise frequency of prostrating versus non-prostrating headaches. The VA exam, 9 months after separation, indicated a history of headaches since March 2003, and stated "She (the CI) has these headaches 4 times a week and her pain will increase to a 10 and last for 8-12 hours. Functionally she reports she is bed bound when she has the severe headaches." The VA rated that exam at 30%.

The Board directs attention to its recommendation based on the above evidence. There was detailed deliberation concerning the functional impact of the headache condition on duty performance and the unfit versus fit determination. The STR was scrutinized for both headache history and medical interventions to try to control headache symptoms, separate from hypertension medical management. Likewise the linkages between the malignant hypertension and headaches and headache treatments were discussed. The Board also discussed the standard of evidence required to find the headache condition as an unfitting and compensable condition.

After due deliberation, the Board majority agreed that the preponderance of the evidence with regard to the functional impairment of the chronic daily headache favors its recommendation as an additionally unfitting condition for disability rating. The Board majority adjudged that there was sufficient evidence of prostrating attacks occurring at an average of one in 2 months over the several months prior to separation to meet the 10% rating criteria. The Board adjudged there was post-separation worsening and insufficient prior to separation evidence to support the higher 30% rating criteria. The Board majority therefore recommends a disability rating of 10% for the headache condition coded 8199-8100 IAW VASRD §4.124a.

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 hypertension condition and IAW VASRD §4.104, the Board unanimously recommends no change in the PEB adjudication. In the matter of the contended headache condition, the Board by a vote of 2:1 agrees that it was unfitting and recommends a disability rating of 10%, coded 8199-8100, IAW VASRD §4.124a. The single voter for dissent (who recommended the headache condition be found not unfitting) submitted the appended 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; and, that the discharge with severance pay be recharacterized to reflect permanent disability retirement, effective as of the date of her prior medical separation:

UNFITTING CONDITION	VASRD CODE	RATING
Hypertension, with Diastolic Pressure Predominantly 110 or More	7101	20%
Chronic Daily Headaches	8199-8100	10%
	COMBINED	30%

The following documentary evidence was considered:

Exhibit A. DD Form 294, dated 20120703, w/atchs.

Exhibit B. Service Treatment Record.

Exhibit C. Department of Veterans' Affairs Treatment Record.

XXXXXXXXXXXXXXXXXXXX, DAF
Acting Director
Physical Disability Board of Review

MINORITY OPINION:

The Minority concluded that the 20% rating adjudicated by the PEB was appropriate due to the documented evidence that best described the medical condition of the CI on the date of separation. No information in the majority opinion demonstrates a preponderance of evidence indicating headaches were a separately unfitting condition.

No evidence in the record, other than post-separation self-reporting at the VA exam, documents prostrating headaches in the last several (or even 11) months of service prior to separation. One exam dated 20 March 2003 (almost a year prior to separation) reported a visit to the emergency room (ER), after the fact, due to headaches; this exam could clearly be interpreted to indicate “prostrating” headaches. No exam or treatment after 9 April, 2003 (11 months prior to separation) reported headache pain (10/10) during the exam; there were exams or treatments that mention headaches occurring at other times, but no reference to anything resembling a prostrating headache. In fact, during an exam on 1 June 2003, the CI “states compliance with BP meds. Denies HA/SOB/Dizziness” (SOB meaning shortness of breath). At an exam on 28 July 2003, the CI reported “some h/a off & on” with a pain scale of 4/10. At the 30 July 2003 consult for headaches, the Neurologist wrote in his report “Curiously when I ask her how severe the headache is, she tells me she actually has no headache.” The closest to separation of anything that could be construed as a “prostrating headache” would be the single ER visit for headaches reported during the exam on 20 March 2003.

As acknowledged above, neither the commander’s statement nor the P3 profile mention headaches as a cause of the move towards medical separation. This is likely because there were no lost workdays, no stopping work to seek treatment for headaches in roughly the year prior to separation. While the NARSUM examiner did in fact state the patient “does not meet AR 40-501 criteria for her uncontrollable hypertension, her chronic daily headaches, and glaucoma,” this same physician was a member of, and signed the Record of Proceedings for, the MEB that diagnosed the headaches and glaucoma as being medically acceptable. The C&P exam 9 months after separation includes self-reported prostrating headaches not corroborated by service records.

Rather than a preponderance of evidence demonstrating headaches as a separate unfitting condition, the clear preponderance of evidence, and all objective evidence, indicates headaches at a not-unfitting level. Additionally, it is plain that prostrating headaches are not evidenced in service records during the majority of the year prior to separation; to conclude an average of one prostrating headache every two months is unsupported by the evidence.

The minority recognizes the dedicated service to the nation by the CI as well as the pain and discomfort brought on by her medical condition. Neither the evidence of record nor the information as presented in the report of the majority, however, demonstrates a preponderance of evidence that the headaches were separately unfitting. The minority finds the PEB made an accurate and fair rating of 20% disability based upon the VASRD rules in effect and the medical condition at the time of separation.

RECOMMENDATION: The Board minority recommends no recharacterization of the PEB adjudicated disability and separation determination, as follows:

UNFITTING CONDITION	VASRD CODE	RATING
Hypertension, With Diastolic Pressure Predominantly 110 or More	5295	20%
Chronic daily headaches	Not unfitting	
	COMBINED	20%

SFMR-RB

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

SUBJECT: Department of Defense Physical Disability Board of Review Recommendation
for XXXXXXXXXXXXXXX, AR20130003033 (PD201201099)

1. 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 reject the Board's recommendation and accept the Board's minority opinion as accurate that the applicant's final Physical Evaluation Board disability rating remains unchanged. There is insufficient justification to support the Board's recommendation in accordance with Army and Department of Defense regulations.

2. 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

XXXXXXXXXXXXXXXXXX
Deputy Assistant Secretary
(Army Review Boards)