

RECORD OF PROCEEDINGS  
PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXXXXXXXXXXXX  
CASE NUMBER: PD1201143  
BOARD DATE: 20130205

BRANCH OF SERVICE: ARMY  
SEPARATION DATE: 20021215

**SUMMARY OF CASE:** Data extracted from the available evidence of record reflects that this covered individual (CI) was an active duty PV1/E-1 (31U10/Signal Support Systems Specialist) medically separated for chronic pain after surgical pinning of her left femoral neck stress fracture. In October 2001, she was diagnosed with a left femoral hip stress fracture. She underwent surgical treatment in November 2001 and her recovery was uneventful. Her left hip condition could not be adequately rehabilitated and she continued to have persistent pain in her left hip. Continued treatment did not allow the CI to meet the physical requirements of her Military Occupational Specialty or satisfy physical fitness standards. She was issued a permanent L3 profile and referred for a Medical Evaluation Board (MEB). The MEB identified the left hip pain and forwarded it as the only condition for Physical Evaluation Board (PEB) adjudication. The PEB adjudicated the chronic pain status post (s/p) pinning of femoral stress fracture, healed as unfitting; and rated it 0%, specifically citing the US Army Physical Disability Agency (USAPDA) pain policy. The CI made no appeals and was medically separated with a 0% disability rating.

**CI CONTENTION:** "I've had continuous pain as well as new pain in my knees and lower back. I have a hard time doing activities with my 8 y/o son. Also, a woman from the VA said 20% for both hips was ridiculous, so I'm asking for a review. Thank you. I was 18 when I left the Army, 17y/o when I joined. I was hurt and took whatever they gave me (even took separation pay) on my Med. Board to get home. I feel I may have been under-rated and taken advantage of."

**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 conditions "identified but not determined to be unfitting by the PEB." The rating for the unfitting chronic pain s/p pinning left femoral stress fracture condition will be reviewed. The knees and lower back pain (LBP) conditions 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 service Board for Correction of Military Records.

**RATING COMPARISON:**

Service IPEB – Dated 20021030			VA (6 Mos. Post-Separation) – All Effective Date 20021216			
Condition	Code	Rating	Condition	Code	Rating	Exam
Chronic Pain s/p Pinning Left Femoral Stress Fracture	5099-5003	0%	Residuals of Left Femoral Neck Fracture	5255*	20%	20030614
↓No Additional MEB/PEB Entries↓			Not Service-Connected x3			20030614
<b>Combined: 0%</b>			<b>Combined: 20%</b>			

\*changed to 5299-5255 and rated 10% left hip; added 5299-5255 and rated 10% right hip; Bilateral factor 1.9 for 20% combined effective 20021216

**ANALYSIS SUMMARY:** The Board acknowledges the sentiment expressed in the CI’s application regarding the significant impairment with which her service-incurred condition continues to burden her. 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. The Board notes that the scope of its recommendations does not extend to conditions which were not diagnosed or in evidence at the time of medical separation. The Board acknowledges the CI’s assertions that “I may have been under-rated and taken advantage of.” It is noted for the record that the Board has neither the jurisdiction nor authority to scrutinize or render opinions in reference to asserted improprieties in the disposition of a case. The Board’s role is confined to the review of medical records and all evidence at hand to assess the fairness of PEB rating determinations, compared to VASRD standards, based on severity at the time of separation. It must also judge the fairness of PEB fitness adjudications based on the fitness consequences of conditions as they existed at the time of separation.

**Chronic Pain s/p Pinning of Femoral Stress Fracture, Healed Condition.** There were four 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.

Left Hip ROM	NARSUM exam performed 7 Mos. Pre-Sep	MEB exam 7 Mos. Pre-Sep.	PT exam 6.5 Mos. Pre-Sep.	VA C&P ~22 Mos. Post- Sep
Flexion (0-125°)	80°	90°	120°	90°
Extension (0-20°)	-	15°	15°	10°
External Rotation (0-45°)	30°	45°	35°	40°
Abduction (0-45°)	4°	45°	45°	20°
Adduction (0-45°)	-		25°	20°
Comment	Normal Gait; Equal limb circumferences; Pos. Painful motion & tenderness to palpation lateral & greater trochanter; No pain & full ROM knee; Normal Strength & Sensation	“Chronic left hip pain/ S-P Op”	Non-antalgic gait; Pos. tenderness to palpation greater trochanter& ant. Hip; Pos. painful motion; Minor decrease in strength due to pain; Normal sensation	Normal Posture & gait; Pos. tenderness greater trochanter; Well healed surgical scar; No painful motion; Repeated or resisted motion cause pain & stiffness with diminished ROM of joints
§4.71a Rating	10%*	-	10%*	10%*

\* Based on VASRD §4.59 painful motion.

At the MEB exam accomplished 7 months prior to separation, the CI reported fractured left femur and surgical placement of three pins in the left femoral neck. The MEB physical exam findings are summarized in the ROM chart above. The narrative summary (NARSUM) prepared 4 months prior to separation noted the CI started experiencing pain in her left hip in October 2001. Later that month, she performed a mule kick and felt a pop in her left hip with extreme pain and inability to bear weight on her left side. She was diagnosed with a left femoral neck stress fracture, was admitted to the hospital and underwent pinning of her left femoral neck stress fracture. She had an uneventful recovery. The CI stated that she had persistent pain in her left hip when she walked any moderate distance or when she sat in one position or stood for too long. She had not been able to run since surgery and she had not been able to do any sort of activity other than light activities of daily living. She took Tylenol for these pains which had not been very successful in relieving her pain. Significant physical examination findings are summarized in the left hip ROM chart above. Radiographic studies included plain film X-rays

that showed good healing and good hardware placement in the left hip. Magnetic resonance imaging (MRI) study of both hips was performed in December 2001 and no femoral fracture was noted on the right side. There was no pain in the right side. Her condition was stable and was not expected to worsen or to improve.

At the VA Compensation and Pension (C&P) exam accomplished 6 months after separation, the CI reported a history similar to the one above with the following significant additions. The CI was 7 months pregnant at the time of the exam. The CI reported having had physical therapy one time. She reported that in mid-January 2001 she started to experience right hip pain. She returned for X-rays and a fracture was noted. There was no treatment performed at that time as the CI was still on light duty secondary to her left hip surgery. The CI reported that she still experienced bilateral inguinal pain when she stood greater than 20 minutes. She stated that she did have difficulty climbing stairs secondary to her pain. Significant physical exam findings were decreased ROM bilaterally secondary to pain in the lower extremities at the hip. Another C&P examination was accomplished 22 months after separation and the CI related the same history as above. She was not pregnant and she was taking non-steroidal anti-inflammatory medications at that time. Significant physical exam findings are summarized in the ROM chart above.

The Board directs attention to its rating recommendation based on the above evidence. The PEB applied the analogous VASRD code of 5099-5003 for the chronic pain after pinning of femoral neck stress fracture condition. They applied the USAPDA pain policy and rated it 0% disabling based on slight/occasional pain. While that rating methodology complied with service policy in effect at the time, the Board is charged with applying VASRD only rating criteria for its final rating recommendations. Based on the limited data contained in the 6 month post-separation C&P exam performed when the CI was 7 months pregnant, the VA initially applied VASRD code 5255 (Femur, impairment of), and rated the condition 20% disabling based on the subjective designation of moderate hip disability due to malunion of the femur. After receiving a more comprehensive C&P examination 22 months after separation, the VA later changed its coding scheme to an analogous code 5299-5255 and rated the same condition 10% disabling effective the day after final separation. Based on that comprehensive examination, there was no hip condition that permitted a compensable evaluation based on specific VASRD diagnostic codes, therefore, it is assumed that the 10% rating was based on painful motion or slight disability of the hip or knee, as the VARD did not clearly state the basis of the rating. At the time of separation, the documented ROM and movement of the CI's left hip was not compensable IAW VASRD codes 5250 thru 5254. There was no hip or knee disability due to malunion as required for VASRD code 5255. There was however, adequate evidence of painful motion of the left hip. The analogous coding scheme applied by the PEB allows for the application of VASRD policy §4.59 in rating the CI's hip pain. The VASRD code 5003, degenerative arthritis states, "When however, the limitation of motion of the specific joint or joints involved is no compensable under the appropriate diagnostic codes, a rating of 10% is for application for each such major joint or group of minor joints affected by limitation of motion, to be combined, not added under diagnostic code 5003. Limitation of motion must be objectively confirmed by findings such as swelling, muscle spasm, or satisfactory evidence of painful motion." The proper application of this VASRD code yields a 10% rating. If the VASRD analogous code of 5299-5255 is utilized, the subjective rating criteria of slight, moderate or marked hip or knee disability would be required for rating purposes and at no time proximate to separation did the evidence document any knee or hip disability beyond "slight." Application of the analogous code 5299-5255 would also yield a 10%, evaluation. After due deliberation, considering all of the evidence and mindful of VASRD §4.3 (reasonable doubt), the Board recommends a disability rating of 10% for the chronic pain s/p pinning of femoral stress fracture, healed 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 chronic pain s/p pinning of femoral stress fracture, healed was operant in this case and the condition was adjudicated independently of that policy by the Board. In the matter of the chronic pain s/p pinning of femoral stress fracture, healed condition, the Board unanimously recommends a disability rating of 10%, coded 5099-5003 IAW VASRD §4.71a. There were no other conditions within the Board's scope of review for consideration.

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**RECOMMENDATION:** The Board recommends that the CI's prior determination be modified as follows, effective as of the date of her prior medical separation:

<b>UNFITTING CONDITION</b>	<b>VASRD CODE</b>	<b>RATING</b>
Chronic Pain s/p Pinning of Femoral Stress Fracture, Healed	5099-5003	10%
	<b>COMBINED</b>	<b>10%</b>

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The following documentary evidence was considered:

- Exhibit A. DD Form 294, dated 20120611, w/atchs
- Exhibit B. Service Treatment Record
- Exhibit C. Department of Veterans' Affairs Treatment Record

XXXXXXXXXXXXXXXXXXXX, DAF  
Acting Director  
Physical Disability Board of Review

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, AR20130003775 (PD2012001143)

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 accept the Board's recommendation to modify the individual's disability rating to 10% without recharacterization of the individual's separation. This decision is final.
2. I direct that all the Department of the Army records of the individual concerned be corrected accordingly no later than 120 days from the date of this memorandum.
3. I request that a copy of the corrections and any related correspondence be provided to the individual concerned, counsel (if any), any Members of Congress who have shown interest, and to the Army Review Boards Agency with a copy of this memorandum without enclosures.

BY ORDER OF THE SECRETARY OF THE ARMY:

Encl

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Deputy Assistant Secretary  
(Army Review Boards)