RECORD OF PROCEEDINGS
PHYSICAL DISABILITY BOARD OF REVIEW

NAME: BRANCH OF SERVICE: ARMY
CASE NUMBER: PD1201445 SEPARATION DATE: 20020715
BOARD DATE: 20121128

SUMMARY OF CASE: Data extracted from the available evidence of record reflects that this covered individual (CI) was an active duty SSGT/E-6 (8N/Transportation Management Coordinator), medically separated for Type I diabetes mellitus. With onset in November 2001, requiring multiple doses of Insulin daily and constant monitoring of blood sugar. Type I diabetes mellitus condition could not be adequately rehabilitated. The CI did not improve adequately with treatment and was unable to meet the physical requirements of his Military Occupational Specialty (MOS) or satisfy physical fitness standards. He was issued a permanent P3 profile and referred for a Medical Evaluation Board (MEB). Bilateral knees, retropatellar pain syndrome and right shoulder, tendinitis with impingement syndrome, identified in the rating chart below, were also identified and forwarded by the MEB. The Informal Physical Evaluation Board (IPEB) adjudicated the Type I diabetes mellitus condition as unfitting, rated 20%, with application of the Veteran's Affairs Schedule for Rating Disabilities (VASRD). The CI appealed to the Formal PEB (FPEB) which affirmed the IPEB findings. The USAPDA replied to a Congressional inquiry following the FPEB, but prior to separation, that the CIs FPEB adjudication had no error or injustice and affirmed the FPEB determination of 20% versus a requested 40% rating. The CI was then medically separated with a 20% disability rating.

CI CONTENTION: "The 20% rating does not fit the disability, Type I Diabetes with controlled diet, restricted activities, and insulin dependent starts at the 40% rating. My condition fits the 40% to 60% category."

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 Type I diabetes mellitus condition requested for consideration meets the criteria in DoDI 6040.44 for Board purview, and is accordingly 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 Army Board for Correction of Military Records.

RATING COMPARISON:

Service FPEB – Dated 20020326			VA (1 Mos. Post-Separation) – All Effective Date 20020716			
Condition	**Code**	**Rating**	**Condition**	**Code**	**Rating**	**Exam**
Diabetes Mellitus, Type I	7913	20%	Diabetes Mellitus	7913	40%*	20020528
Bilateral Knees w/Pain Syndrome	Not Unfitting		Left Knee Retropatellar Syndrome	5260	0%**	20020528
			Right Knee Retropetallar Syndrome	5260	0%**	20020528
Right Shoulder tendinitis w/impingement Syndrome	Not Unfitting		Right Shoulder Impingement w/Tendinitis	5201-5024	10%	20020528
↓No Additional MEB/PEB Entries↓			0% X 1 / Not Service-Connected x 3			
Combined: 20%			**Combined: 50%**			

*BVA Decision 20070905 led to re-rating DM (7913) from 20% to 40% effective day after discharge. **BVA Decision made knees SC w/0% disability eff 20020420.

ANALYSIS SUMMARY. The FPEB disability description was:

> Type I diabetes mellitus, onset Nov 01, requires multiple doses of injectable insulin daily and constant (4x daily) monitoring of blood sugar. No diabetic complications, has occasional episodes of hypoglycemia which do not require physicians care (emergency room visits), usually associated with prolonged arduous physical activity. Able to perform at 7 to 8 METS such as jogging at 12 minute mile pace for 2 miles and walk 2.5 miles under 30 minutes. Hemoglobin A1c reported at 6.5 indicating good control.

Diabetes Mellitus, Type I Condition. The narrative summary (NARSUM) notes CI developed insulin dependent diabetes requiring hospitalization in November 2001. The service treatment record (STR) shows his sugars stabilized on long and short acting injectable Insulin given three to four times a day. His symptoms of blurred vision, polyuria and polydipsia resolved, but he experienced exercise and delayed meal related hypoglycemia episodes once or twice a week that required oral glucose, but no formal medical care. He never completed another physical fitness exam after his diagnosis. Workups showed normal foot and eye exams, no renal or other end organ damage eight and 5 months prior to separation. CI was compliant with Insulin therapies and serum glucoses ranged between 82 and 160. At the MEB exam, 5 months prior to separation, the CI reported he "felt fine" except for symptomatic hypoglycemia with blood sugars in the 40s and 50s once or twice a week, usually related to delayed meals or exercise. The MEB physical exam noted no acute abnormalities. A commander's statement dated 5 months before separation noted that the CI could not deploy due to need for refrigerated medications, was on a special diet (American Diabetes Association diet/ADA) and could still do fitness training except in the early morning when his sugars tended to fluctuate (low). Additionally, he could not do shift work, reported for hospital glucose levels weekly, and was on the ADA diet and restricted from field rations. He was unable to do most of his MOS except for administrative work. A second commander's statement dated 3 months prior to separation noted all of the above restrictions, but also noted further restricted activities from carrying loads and pushing equipment due to hypoglycemia episodes. The commander noted that the CI would have to leave his work area to eat an appropriate diet, take his shots, and could not do the shift work. He could not work a 24 hour shift due to fatigue or stabilize his hypoglycemia episodes trending as low as "in the 50's and 60's". The commander stated the CI could no longer do physical fitness without having hypoglycemia in "1&1/2 miles" and could not work on the airfield due to "his sugars can drop low before he notices and then goes rapidly and so it affects him and is unsafe for him…" A permanent P3 profile 3 months prior to separation noted the CI required "no 24 hour duty due to blood glucose fluctuations. No deployment due to diabetes, required access to insulin syringes, (refrigerated insulin), monitoring, hospital care as needed. No assignment to units requiring ongoing consumption of field rations, requires ADA prescribed diet." The only aerobic conditioning exercise permitted was "Walk at own pace and

distance," but the CI was permitted to do the physical fitness test walk (but not run) and could also march up to 2 miles. The profile was signed by two physicians. Under block 9, OTHER the profile stated "MEB initiated. Prolonged, heavy exertion only as tolerated. No prolonged extreme exertion." At the VA Compensation and Pension (C&P) exam, 6 weeks prior to separation the CI reported "a multitude of hypoglycemic reactions," and the use of three types of Insulin, but no diabetic peripheral neuropathy, renal disease or vascular problems." His physical exam showed a weight of 145 pounds, reportedly down from 160 a year before, a near-normal Hemoglobin A1C at 6.5 (4-6) and otherwise normal physical exam except for minor musculoskeletal findings outside this scope. Post-separation VA records, including the Board of Veterans Appeals (BVA) decision dated September 5, 2007 demonstrated the CI had continued hypoglycemic episodes with activity and went on to develop hypoglycemic seizures with work and driving restrictions. The CI's symptoms came under better control when the CI was begun on an insulin pump in 2005 and symptomatic episodes and work restrictions decreased after 2005.

The Board directs attention to its rating recommendation based on the above evidence. The FPEB and the VA chose the same VASRD code 7913 for adjudicating diabetes mellitus. The Board found no evidence of episodes of ketoacidosis or hypoglycemic reactions requiring one or two hospitalizations per year at the time of separation or documented diabetic complications that would not be compensable if separately evaluated. Although the CI was documented to "visit the hospital" once a week for glucose monitoring, this was outpatient laboratory testing and not emergency department or inpatient treatment. The CI was clearly on insulin and a restricted diet. The deliberation of this case focused on whether the CI met the VASRD criteria for "regulation of activities" for a 40% rating rather than a 20% rating. The VASRD definition of regulation of activities (avoidance of strenuous occupational and recreational activities), requires physician-prescribed restriction per VA policy and legal precedence. The Board deliberated if the profile restrictions and multiple hypoglycemic reactions related to exercise or activity (not requiring medical treatment) rose to the level to more closely approximate the 40% rating level. There was no exercise tolerance test in evidence and the FPEB described ability "to perform at 7 to 8 METS" was adjudged to be an approximation most likely based on the CI's fitness testing performance. The overall picture of the CI's DM proximate to separation was of good glucose control, with a "brittle" type of picture with hypoglycemic episodes when activities were prolonged, heavy, or unscheduled.

The Board found the physician-signed profile restrictions, restriction from early morning fitness training, multiple doses of insulin for control and noted hypoglycemic events did constitute regulation of activities and the CI's disability picture at the time of separation more nearly approximated the disability picture of the 40% rating criteria. After due deliberation, considering all of the evidence and mindful of VASRD §4.3 (reasonable doubt), the Board recommends a disability rating of 40% for the diabetes mellitus 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 diabetes mellitus, Type I condition, the Board unanimously recommends a disability rating of 40% coded 7913 IAW VASRD §4.119. 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 his prior medical separation:

UNFITTING CONDITION	VASRD CODE	RATING
Diabetes Mellitus, Type I	7913	40%
	COMBINED	**40%**

The following documentary evidence was considered:

Exhibit A. DD Form 294, dated 20020713, w/atchs
Exhibit B. Service Treatment Record
Exhibit C. Department of Veterans' Affairs Treatment Record

President
Physical Disability Board of Review

SFMR-RB

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

SUBJECT: Department of Defense Physical Disability Board of Review Recommendation

1. Under the authority of Title 10, United States Code, section 1554(a), I approve the enclosed recommendation of the Department of Defense Physical Disability Board of Review (DoD PDBR) pertaining to the individual named in the subject line above to recharacterize the individual's separation as a permanent disability retirement with the combined disability rating of 40% effective the date of the individual's original medical separation for disability with severance pay.

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:

a. Providing a correction to the individual's separation document showing that the individual was separated by reason of permanent disability retirement effective the date of the original medical separation for disability with severance pay.

b. Providing orders showing that the individual was retired with permanent disability effective the date of the original medical separation for disability with severance pay.

c. Adjusting pay and allowances accordingly. Pay and allowance adjustment will account for recoupment of severance pay, and payment of permanent retired pay at 40% effective the date of the original medical separation for disability with severance pay.

d. Affording the individual the opportunity to elect Survivor Benefit Plan (SBP) and medical TRICARE retiree options.

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

Deputy Assistant Secretary
(Army Review Boards)