



CUI//SP-MIL/SP-PRVCY

**UNITED STATES AIR FORCE
BOARD FOR CORRECTION OF MILITARY RECORDS**

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2022-01264

Work-Product

COUNSEL: *Work-Product*

HEARING REQUESTED: NO

APPLICANT'S REQUEST

Her service-connection for migraines be added to her list of unfitting conditions with a 30 percent disability compensation rating per her Department of Veterans Affairs (DVA) rating.

APPLICANT'S CONTENTIONS

The DVA increased her service-connected migraines from her initial Integrated Disability Evaluation System (IDES) determination to 30 percent disability compensation with a combined disability compensation rating of 50 percent.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a medically retired Air Force staff sergeant (E-5).

On 26 May 21, AF IMT 618, *Medical Board Report*, indicates the applicant was referred to the Informal Physical Evaluation Board (PEB) for multiple sclerosis.

On 23 Jun 21, AF Form 356, *Informal Findings and Recommended Disposition of USAF Physical Evaluation Board*, indicates the applicant was found unfit for multiple sclerosis with a disability compensation rating of 30 percent with a recommendation of permanent retirement.

On 29 Jun 21, AF Form 1180, *Action on Physical Evaluation Board Findings and Recommended Disposition*, indicates the applicant did not agree with the findings and recommended disposition of the board and requested a formal hearing.

On 13 Jul 21, AF Form 1180, indicates the applicant requested to waive her right to a Formal PEB hearing.

On 5 Jan 22, the applicant received an honorable discharge. Her narrative reason for separation is "Disability, Permanent IDES." She was credited with 6 years, 7 months, and 10 days of total active service.

On 12 Jan 22, according to the DVA Rating Decision provided by the applicant, she was granted a 30 percent disability compensation rating for service-connected migraine headaches, effective 6 Jan 22.

**AFBCMR Docket Number BC-2022-01264
CUI//SP-MIL/SP-PRVCY**

Controlled by: SAF/MRB
CUI Categories: SP-MIL/SP-PRVCY
Limited Dissemination Control: N/A
POC: SAF.MRBC.Workflow@us.af.mil

CUI//SP-MIL/SP-PRVCY

Dated 28 Jul 22, Special Order Number Work-Product indicates the applicant was relieved from active duty and permanently disability retired in the grade of staff sergeant with compensable percentage for physical disability of 30 percent, effective 6 Jan 22.

For more information, see the excerpt of the applicant's record at Exhibit B and the advisory at Exhibit C.

AIR FORCE EVALUATION

AFPC/DPFDD recommends denying the applicant's request based on the documentation provided by the applicant and analysis of the facts. There is no indication an error or injustice occurred during DES processing. Award of a disability rating by the DVA for a claimed medical condition that was not considered unfitting by the PEB does not warrant change to the original IDES ratings after the fact.

The Air Force and the DVA disability systems operate under separate laws. Under the Air Force system (Title 10, United States Code [U.S.C.]), the Physical Evaluation Board (PEB) must determine whether an airman's medical condition renders them unfit for continued military service relating to their office, grade, rank or rating. To be unfitting, the condition must be such that it alone precludes the member from fulfilling their military duties. The PEB then applies the rating best associated with the level of disability at the time of disability processing. That rating determines the final disposition (discharge with severance pay, placement on the temporary disability retired list, or permanent retirement) and is not subject to change after the service member has separated. Under the DVA system (Title 38, U.S.C), the member may be evaluated over the years and their rating may be increased or decreased based on changes in the member's medical condition at the current time. However, a higher rating by the DVA, based on new and/or current exams conducted after discharge from service does not warrant a change in the total compensable rating awarded at the time of the member's separation.

The complete advisory opinion is at Exhibit C.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION

The Board sent a copy of the advisory opinion to the applicant on 22 Aug 22 for comment (Exhibit D), but has received no response.

FINDINGS AND CONCLUSION

1. The application was timely filed.
2. The applicant exhausted all available non-judicial relief before applying to the Board.
3. After reviewing all Exhibits, the Board concludes the applicant is not the victim of an error or injustice. The Board concurs with the rationale and recommendation of AFPC/DPFDD and finds a preponderance of the evidence does not substantiate the applicant's contentions. Therefore, the Board recommends against correcting the applicant's records.

RECOMMENDATION

The Board recommends informing the applicant the evidence did not demonstrate material error or injustice, and the Board will reconsider the application only upon receipt of relevant evidence not already presented.

CERTIFICATION

The following quorum of the Board, as defined in Department of the Air Force Instruction (DAFI) 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*, paragraph 2.1, considered Docket Number BC-2022-01264 in Executive Session on 25 Jan 23:

Work-Product, Panel Chair
Work-Product, Panel Member
Work-Product Panel Member

All members voted against correcting the record. The panel considered the following:

- Exhibit A: Application, DD Form 149, w/atchs, dated 8 Apr 22.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Advisory Opinion, AFPC/DPFDD, w/atchs, dated 17 Aug 22.
- Exhibit D: Notification of Advisory, SAF/MRBC to Counsel, dated 22 Aug 22.

Taken together with all Exhibits, this document constitutes the true and complete Record of Proceedings, as required by DAFI 36-2603, paragraph 4.12.9.

12/6/2023

Work-Product

Board Operations Manager, AFBCMR
Signed by: *Work-Product*