



Work-Product

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

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2024-00523

Work-Product

COUNSEL: Work-Product

HEARING REQUESTED: NO

APPLICANT'S REQUEST

The Prior Service Condition (PSC) Determination memorandum, dated 6 Dec 23 be corrected to reflect:

a. Her PSC determination of not applicable for ulcerative colitis (UC) and spondyloarthropathy/polyarthralgia be changed to service connected/Duty Related.

b. She never had pneumonia and was diagnosed with tracheobronchitis and later asthma.

APPLICANT'S CONTENTIONS

Her PSC determination of "Non-Duty" related is erroneous. The PSC determination only took into account her most recent active time in the Air National Guard (ANG) as her *only* (emphasis added) potential active duty time with respect to the timeline of developing symptoms. What should have been reviewed/taken into consideration were her two almost-consecutive overseas deployments to Work-Product (Dec 07 – May 08) and Work-Product (Aug 08 – Jan 09). It should be noted both of these deployed locations had active burn pits, which qualified her to register with the Department of Veterans' Affairs (DVA) Burn Pit Registry. Additionally, while the PSC determination notes UC and spondyloarthropathy/polyarthralgia are medically known to run in families, even with the known genetic component, the DVA has seen so many cases from Gulf-War service members the DVA made medically unexplained gastroenterology (GI) disorders *presumptive* (emphasis added) for service-connected disability. Her documented symptoms match just about every single presumptive condition the DVA has listed under the Gulf War area term "medically unexplained illness."

While the memo also states, "SM was also found to have underlying asthma after recovering from pneumonia," she never had pneumonia. In 2020, while on qualifying orders, she was hospitalized for severe upper-bronchial inflammation which was later diagnosed as asthma.

It is her sincere belief that her time spent in Work-Product and Work-Product could logically be attributed to her incurring a medically unexplained chronic multisymptom illness (MUCMI), to include her fibromyalgia, joint pain, headaches, and GI issues. She was healthy before her deployments. Considering her history of active duty, deployment locations, her current medical conditions, and the timeline of the symptoms, her UC and spondyloarthropathy/polyarthralgia are service-connected and therefore qualify for a Duty-Related determination.

The applicant's complete submission is at Exhibit A.

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STATEMENT OF FACTS

The applicant is an ANG technical sergeant (E-6).

On 29 Jul 04, according to DD Form 4, *Enlistment/Reenlistment Document, Armed Forces of the United States*, she enlisted in the Air Force Reserve (AFR) for a period of six (6) years.

On 2 Jun 08, according to DD Form 214, *Certificate of Release or Discharge from Active Duty*, the applicant served in support of Operation **Work-Product**, Title 10 USC 12301(d) for the period of 26 Dec 07 to 2 Jun 08. Further it reflects she served in the area of responsibility from 1 Jan 08 to 30 Apr 08 and she was awarded the **Work-Product** Campaign Medal.

On 15 Jan 09, according to the applicant's DD Form 214, she served in support of Operation **Work-Product**, IAW 10 USC, 12301(d) for the period 29 Aug 08 to 12 Jan 09. Further, it reflects she served in the area of responsibility from 3 Sep 08 to 15 Dec 08 and she was awarded the **Work-Product** Campaign Medal with one Service Star.

On 28 Jul 12, according to Reserve Order **Work-Product**, dated 31 Jul 12, the applicant was honorably discharged from the AFR.

According to NGB Form 22, *National Guard Report of Separation and Record of Service*, the applicant enlisted in the **Work-Product** Army National Guard on 26 Mar 14 and was discharged on 25 Mar 17.

On 28 Jun 17, according to DD Form 4, she enlisted in the **Work-Product** ANG for a period of six (6) years.

On 31 Dec 20, according to DD Form 214, she was honorably released from active duty upon completion of required active service. Section 18, *Remarks*, reflects she served on Active Duty, IAW 32 USC 502(f) from 29 Oct 19 – 31 Dec 20.

On 6 Dec 23, according to memorandum *Prior Service Condition Determination - <applicant>*, NGB/SGPS reviewed the applicant's diagnosis of ulcerative colitis (UC), asthma, spondyloarthropathy/polyarthralgia, depressive disorder and anxiety disorder and made the following PSC determinations with the recommendation for further processing through the Physical Evaluation Board for a Fitness for Duty determination for UC and HLA B27 spondyloarthropathy/polyarthralgia.

1. PSC for UC and Spondyloarthropathy/Polyarthralgia is not applicable.
2. PSC for depressive disorder, anxiety disorder and asthma are not applicable as they are not unfitting.

On 24 Jan 24, according to the letter from Hanover Family Practice, Associates, the applicant's civilian medical provider, states <applicant> "was treated at Hanover Hospital from 29 Mar 20 – 31 Mar 20...and although the applicant's "initial working admission diagnosis was clinical pneumonia...however, this was unfounded when <applicant> had CT chest scan done after being admitted later in the day...<applicant> was subsequently discharged on 31 Mar 20 with a final and accurate diagnosis of tracheobronchitis, sepsis, and migraine."

On 22 Feb 24, according to the *Statement of Selection (Non-Duty DES)*, dated 14 Dec 23, the applicant signed and acknowledged her desire to enter the DES and understood her case is Non-

Duty related and it will be for a **Fitness** determination only. On that same date, the applicant signed and acknowledged receipt of the 193 SOFSS DES Counseling Memorandum dated 14 Dec 23.

On 29 Aug 24, according to AF Form 356, *Findings and Recommended Disposition of USAF Physical Evaluation Board*, the Informal Physical Evaluation Board (IPEB) found her UC and HLA B27 spondyloarthropathy/ polyarthralgia incompatible with the rigors of military service and *unfitting*.

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

APPLICABLE AUTHORITY/GUIDANCE

Department of the Air Force Instruction (DAFI) 36-2910, *Line of Duty (LOD) Determination, Medical Continuation (MEDCON), and Incapacitation Pay (INCAP)*, 3 Sep 21, (Chg 1, 28 Sep 22, DAFGM 2023-02, 17 Nov 23): 1.12. Prior Service Condition (PSC). 1.12.1. For the purpose of DES processing, a prior service condition is any medical condition incurred or aggravated during one period of active service or authorized training in any of the Military Services that recurs, is aggravated, or otherwise causes the member to be unfit, should be considered incurred in the LOD, provided the origin of such condition or its current state is not due to the service member's misconduct or willful negligence, or progressed to unfitness as the result of intervening events when the service member was not in a duty status. (See **DoDI 1332.18**). **Note:** Intervening events can be a car accident that worsened the existing condition, a civilian job that aggravates the condition, member's willful neglect or misconduct. For example, if a member had an anterior cruciate ligament repair ten years during a period of active service or authorized training, and is now unfit because of the ACL failure, then that injury is considered PSC. If there was an anterior cruciate ligament repair ten years ago and the service member is now unfit because the meniscus is beyond repair that is not considered PSC. **Note:** Age is not an intervening event.

1.12.4. A PSC without service aggravation or recurrence will not be used for medical care and treatment, INCAP, or MEDCON and it will only allow for entrance into the applicable DES. AFRC's ARC LOD Board or NGB/SG is the approval authority for issuing the determination associated with a PSC condition.

AIR FORCE EVALUATION

NGB/SGPS recommends denying the request. Based on the documentation provided by the applicant and analysis of the facts, there is no error or injustice regarding the PSC memo. The applicant contends the PSC memo, dated 6 Dec 23 is incorrect as her UC, a type of Irritable Bowel Disease (IBD) is duty related. She states her most recent orders, for the period of Oct 19 – Dec 20, were only taken into consideration by NGB/SGPS when deciding the PSC determination. However, the consultation report from the Lebanon Veterans Administration (VA) Medical Center, dated 17 May 22, indicates she was having abdominal pain for the past seven (7) years and was being treated with omeprazole for Gastroenterology Reflux Disease (GERD). She continued to have follow-up appointments with Gastroenterology regarding her IBD and a family history of IBD was noted in her records. There was no documentation submitted or in her electronic health records which indicates her IBD was incurred while in a qualified duty status. Additionally, she asserts the PSC memo states she had pneumonia but her actual diagnosis was tracheobronchitis, however, the PCS memo referenced pneumonia as it was the initial admitting diagnosis until a completed medical evaluation was done and she was subsequently diagnosed with underlying asthma.

A PSC package was submitted by the applicant's Guard Medical Unit (GMU) for the diagnosis of ulcerative colitis (UC), asthma, spondyloarthropathy/polyarthralgia, depressive disorder and anxiety disorder. A review of PSC package and her available military health records determined her condition of UC and spondyloarthropathy/polyarthralgia as not applicable and her conditions of depressive disorder, anxiety disorder as not applicable as they are not unfitting. She has multiple chronic conditions that rendered her unfit to complete the duties of her rank, grade, and position. As a result, her case was referred to the Informal Physical Evaluation Board (IPEB) for review.

The applicant acknowledged she was briefed on the Disability Evaluation System (DES) when she signed the *Receipt of DES Counseling Memorandum*. She then elected to enter the Non-Duty Disability System (NDDDES) when she signed the *Statement of Selection (SOS) to Separate or Enter the Non-Duty Disability Evaluation System (NNDES)* and acknowledged the following contained within:

- I acknowledge that I have been identified as having a condition that interferes with military service. In accordance with DoDI 1332.18, I understand that I have the option to enter into the Disability Evaluation System (DES). Furthermore, I understand that a refusal to make an election and sign this document will be considered an election to waive the DES and I will be involuntarily separated.
- I desire to enter into the DES.
- I understand that my case is Non-Duty related and that it will be for a Fitness determination only. NGB/SG will review my case to determine if: Prior Service Condition applies; Assignment Limitation Code stratification needs to be placed in the Personnel Data System; or; If case needs to be referred to the Physical Evaluation Board (PEB).
- I understand, unless NGB/SGP non-concurs, my case will be submitted to the Disability Evaluation System (DES) and AFPEB for a Fitness for Duty determination only in accordance with AFI 36-3212.

The DES can, by law under Title 10 United States Code, can only offer compensation for those service-incurred diseases or injuries which specifically rendered a member unfit for continued service and were the cause for career termination; and then only for the degree of impairment present at the "snapshot" time of separation and not based on future progression of the injury or illness. The Department of Veterans' Affairs (DVA) on the other hand, operates under a different set of laws (Title 38, USC) with a different purpose and is authorized to offer compensation for any medical condition determined service incurred, without regard to and independent of its demonstrated or proven impact upon a service member's retainability, fitness to serve, or the length of time since the date of discharge. The DVA can also conduct periodic re-evaluations for the purpose of adjusting the disability rating awards (increase or decrease) over the lifetime of the veteran.

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 17 Oct 24 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 NBG/SGPS and finds a preponderance of the evidence does not substantiate the applicant's contentions. Although the applicant contends the PSC memo is incorrect as her UC and spondyloarthropathy/polyarthralgia are service-connected and therefore qualify for a Duty-Related determination and that her most recent service period were only taken into consideration when making the PSC determination, the Board disagrees. Medical records indicate that she was having abdominal pain for the past seven (7) years and being treated with Omeprazole for GERD, in addition to reflecting a family history of IBD. The Board notes the applicant did not provide any documentation, nor was documentation located within her records, which indicate her IBD was incurred while in a qualified duty status. The Board also notes that the PSC memo correctly referenced pneumonia as it was the initial admitting diagnosis until a complete medical evaluation was done and the applicant was diagnosed with underlying asthma. Therefore, in view of the foregoing, 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-2024-00523 in Executive Session on 26 Nov 24:

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 4 Feb 24.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Advisory Opinion, NGB/SGPS, w/atchs, dated 15 Oct 24.
- Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 17 Oct 24.

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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.

12/5/2024

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Board Operations Manager, AFBCMR
Signed by: USAF