

IN THE CASE OF: [REDACTED]

BOARD DATE: 28 March 2024

DOCKET NUMBER: AR20230000765

APPLICANT REQUESTS: a change to her reentry code of 4 shown on her DD Form 214 (Certificate of Release or Discharge from Active Duty).

APPLICANT'S SUPPORTING DOCUMENT(S) CONSIDERED BY THE BOARD:

- DD Form 149 (Application for Correction of Military Record)
- DA Form 3947 (Medical Evaluation Board Proceedings)
- Brooke Army Medical Center Office of Soldiers' MEB Counsel memorandum
- Carl R. Darnell Army Medical Center Medical Evaluation Board Clinic Memorandum for Record

FACTS:

1. The applicant did not file within the 3-year time frame provided in Title 10, U.S. Code, section 1552(b); however, the Army Board for Correction of Military Records (ABCMR) conducted a substantive review of this case and determined it is in the interest of justice to excuse the applicant's failure to timely file.

2. The applicant states, in effect:

a. She received a medical discharge with a reentry code of 4. She had multiple items of evidence to prove she was fit for duty. She was told that she had to have the surgery, but once she had the surgery, she was not given recovery time. In addition, her primary care manager (PCM) refused to see her after making multiple appointments. Without examining her in over a month, she was put in for a Medical Evaluation Board (MEB), which he did not discuss with her. Her PCM had a letter from the surgeon clearing her to return to duty, stating the issue was resolved. However, the evidence was not considered during MEB process. The basis of the MEB that disqualified her from returning to duty was due to her inability to wear her uniform. Yet, she was wearing her uniform every day.

b. Her MEB was on false statements, as her skin condition is not permanently aggregated. The clinic switched her PCM to a higher up from the lack of communication and care. Physical therapy was done and the surgeon conducted an extensive

examination to ensure it was completely removed. No medicine was needed after for issues. It has been almost a year and the condition has not returned.

3. The applicant provides:

a. DA Form 3947, dated 22 April 2022, reflects the applicant's case file (clinical records, laboratory findings, and physical exams) was considered by the Board. The Board found the applicant has 28 diagnosed medical conditions; however, only found one medical condition (Hidradenitis Suppurativa) that does not meet retention standard, that it existed prior to service, and was permanently aggravated by service. The applicant did not concur with the medical findings and elected to submit a rebuttal.

b. Brooke Army Medical Center Office of Soldiers' MEB Counsel memorandum, dated 3 May 2022, states, "[the applicant] had received extensive treatment for her Hidradenitis suppurativa. She is adamant that the condition now meets retention standards as set forth in the enclosure. She believes a profile change and return to duty is warranted. Her treatment records are available via electronic review."

c. Carl R. Darnell Army Medical Center Medical Evaluation Board Clinic Memorandum For Record, dated 19 May 2022, Subject: Reference to Rebuttal of the Medical Evaluation Board (MEB), written by Dr. [REDACTED] MEB Staff Physician, states the following:

(1) Regarding hidradenitis suppurativa, I have reviewed the SM AHLTA records, MEB case file, to include VA C&P examinations and concluded this condition does not meet retention standards. The SM has had this condition since 2016. The SM received a waiver to join the Army with this condition. On 01MAR2021, the SM saw dermatology who recommended that hidradenitis suppurativa be excised surgically. The SM was seen at Baylor Scott and White and she underwent excision with skin grafting. However, on 10MAR2022, the SM presented to PCM "requesting extension of convalescent leave from a surgery in early January 2022 with continued complaints of inability to perform duties or wear an Army uniform." I concur with the MEB findings and recommend this condition listed on DA3947 as not meeting retention standards.

(2) I agree with the NARSUM findings. Furthermore, all of the remaining conditions listed in section 9 of the iNARSUM were considered individually and in combination with each of the Soldier's conditions and these conditions meet retention standards. No changes recommended.

4. A review of the applicant's service record shows:

a. She enlisted in the Regular Army on 23 April 2018 for a period of 4 years and 21 weeks.

b. DA Form 199 (Informal Physical Evaluation Board (PEB) Proceedings), dated 6 July 2022, reflects the PEB convened and found the Soldier is physically unfit and recommends a rating of 30 percent that the Soldier's disposition be permanent disability retirement. Further stating in Section V (Administrative Determinations) the following:

(1) The disability disposition is not based on disease or injury incurred in the line of duty in combat with an enemy of the United States and as a direct result of armed conflict or caused by an instrumentality of war and incurred in the line of duty during a period of war (5 USC 8332, 3502, and 6303). (This determination is made for all compensable cases but pertains to potential benefits for disability retirees employed under Federal Civil Service.)

(2) Evidence of record reflects the Soldier was not a member or obligated to become a member of an armed force or Reserve thereof, or the NOAA or the USPHS on 24 September 1975.

(3) The disability did not result from a combat-related injury under the provisions of 26 USC 104 or 10 USC 10216.

c. DD Form 214 reflects the applicant was honorably retired on 30 October 2022, under the provisions of Army Regulation (AR) 635-40 (Physical Evaluation for Retention, Retirement or Separation), chapter 4, disability (permanent), separation code SEJ, and reentry code 4. She served 4 years, 6 months, and 8 days of net active service this period.

5. AR 635-40 establishes the Army Physical Disability Evaluation System (PDES) according to the provisions of Title 10, United States Code (USC), Chapter 61, (10 USC 61) and DODI 1332.18. It sets forth policies, responsibilities, and procedures that apply in determining whether a Soldier is unfit because of physical disability to reasonably perform the duties of his or her office, grade, rank, or rating. If a Soldier is found unfit because of physical disability, this regulation provides for disposition of the Soldier according to applicable laws and regulations.

6. AR 601-210 (Active and Reserve Components Enlistment Program) governs eligibility criteria, policies, and procedures for enlistment and processing into the Regular Army, U.S. Army Reserve, and Army National Guard. Chapter 3 prescribes the basic eligibility for prior-service applicants for enlistment and includes a list of Armed Forces RE codes used for administrative purposes.

## 7. MEDICAL REVIEW:

a. The Army Review Boards Agency (ARBA) Medical Advisor was asked to review this case. Documentation reviewed included the applicant's ABCMR application and

accompanying documentation, the military electronic medical record (AHLTA), the VA electronic medical record (JLV), the electronic Physical Evaluation Board (ePEB), the Medical Electronic Data Care History and Readiness Tracking (MEDCHART) application, and the Interactive Personnel Electronic Records Management System (iPERMS). The ARBA Medical Advisor made the following findings and recommendations:

b. The applicant is applying to the ABCMR in essence requesting reversal of the United States Army Physical Disability Agency's determination her hidradenitis suppurativa was unfitting for continued military service. She states in part:

"The reentry code is a 4 [nonwaiverable disqualification for reentry]. I got out on a medical discharge because fighting it was too consuming. I had multiple items of evidence to prove I was for duty. I was told I had to do this surgery but once I had it wasn't given recovery time and PCM [primary care manager] refused to see me after making multiple appointments. Without looking at me over a month put me in for a MEB [medical evaluation board] which he didn't even discuss with me.

He had a letter from surgeon clearing me to return stating the issue was resolved. Evidence wasn't considered during MEB process. Basis of MEB to disqualify from returning to duty was because I couldn't wear my uniform. Yet, I was wearing it every day. My MEB was on false statements. My skin condition isn't permanently aggregated.

c. The Record of Proceedings details the applicant's military service and the circumstances of the case. Her DD 214 for the period of Service under consideration shows she entered the regular Army on 23 April 2018 and was permanently retired for physical disability on 30 October 2022 under provisions in chapter 4 of AR 635-40, Physical Evaluation for Retention, Retirement, or Separation (19 January 2017).

d. A Soldier is referred to the IDES when they have one or more conditions which appear to fail medical retention standards as documented on a duty limiting permanent physical profile. At the start of their IDES processing, a physician lists the Soldier's referred medical conditions in section I the VA/DOD Joint Disability Evaluation Board Claim (VA Form 21-0819). The Soldier, with the assistance of the VA military service coordinator, lists all conditions they believe to be service-connected disabilities in block 8 of section II or a separate Statement in Support of Claim (VA form 21-4138).

e. Soldiers then receive one set of Disability Benefits Questionnaires (DBQ, formerly known as VA C&P) examinations covering all their referred and claimed conditions. These examinations, which are the examinations of record for the IDES, serve as the basis for both their military and VA disability processing. All conditions are then rated

by the VA prior to the Soldier's discharge. The physical evaluation board (PEB), after adjudicating the case sent them by the medical evaluation board (MEB), applies the applicable VA derived ratings to the Soldier's unfitting condition(s), thereby determining their final combined rating and disposition. Upon discharge, the Veteran immediately begins receiving the full disability benefits to which they are entitled from both their Service and the VA.

f. On 16 March 2022, the applicant was referred to the IDES for "hidradenitis suppurativa." From the National Library of Medicine's website:

"Hidradenitis suppurativa (HS), also called acne inversus, is a chronic inflammatory skin condition with lesions including deep-seated nodules and abscesses, draining tracts, and fibrotic scars. These lesions most commonly occur in intertriginous areas and areas rich in apocrine glands ...

Prognosis is variable. There is no cure for this condition. The prognosis worsens if there is a delay in diagnosis and treatment during the early stages of the disease and if comorbid conditions of smoking and obesity (if present) are not addressed and improved." (<https://www.ncbi.nlm.nih.gov/books/NBK534867/>)"

g. The applicant claimed 17 additional conditions on her Application for Disability Compensation and Related Compensation Benefits (VA Form 21-526EZ) and Statement in Support of Claim (VA form 21-4138).

h. A medical evaluation board (MEB) determined the applicant's referred medical condition failed the medical retention standards of AR 40-501, Standards of Medical Fitness. They determined twenty-seven additional conditions met medical retention standards. On 27 April 2022, the applicant non-concurred with the MEB's findings, maintaining that her HS did not fail medical retention standards.

i. The physician responsible for reviewing her appeal maintained the MEB's finding that the applicant's HS did fail medical retention standards and that her remaining medical conditions met medical retention standards:

"Regarding hidradenitis suppurativa, I have reviewed the SM's [service member] AHLTA records, MEB case file, to include VA C&P examinations and concluded this condition does not meet retention standards. The SM has had this condition since 2016. The SM received a waiver to join the Army with this condition.

On 01MAR2021, the SM saw dermatology who recommended that hidradenitis suppurativa be excised surgically. The SM was seen at [REDACTED] and she underwent excision with skin grafting. However, on 10MAR2022, the SM presented to PCM "requesting extension of convalescent leave from a surgery in early January 2022 with continued complaints of inability to perform duties or wear an Army uniform."

I concur with the MEB findings and recommend this condition listed on DA3947 as not meeting retention standards.

I agree with the NARSUM [narrative summary] findings. Furthermore, all of the remaining conditions listed in section 9 [conditions meeting retention standards] of the NARSUM were considered individually and in combination with each of the Soldier's conditions and these conditions meet retention standards. No changes recommended."

j. The appeal addressed, her case file, along with her appeal and physician's review of her appeal, were forwarded to the PEB for adjudication.

k. On 6 July 2022, the applicant's informal PEB determined her HS was the sole unfitting condition for continued service. They determined the remaining twenty-seven conditions were not unfitting for continued service. The PEB applied the Veterans Benefits Administration's (VBA) derived rating of 30% and recommended the applicant be permanently retired for physical disability. On 28 July 2022, after being counseled on the informal PEB's findings and recommendation by his PEB Liaison Officer, the applicant concurred with the informal PEB's findings, waived her right to a formal hearing, and declined to request a VA reconsideration of his disability rating.

l. No additional evidence was submitted with the application demonstrating a potential error in the USAPDA's decision that her chronic medical condition was unfitting for continued service.

m. It is the opinion of the ARBA Medical Advisor that reversal of USAPDA's determination her hidradenitis suppurativa was unfitting for continued military service is unwarranted.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found relief is not warranted.
2. The Board found the applicant was properly retired for disability. The reentry code associated with retirement is "4." The Board determined the reentry code she was assigned upon retirement is not in error or unjust.

BOARD VOTE:

Mbr 1      Mbr 2      Mbr 3

:	:	:	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
■	■	■	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

The evidence presented does not demonstrate the existence of a probable error or injustice. Therefore, the Board determined the overall merits of this case are insufficient as a basis for correction of the records of the individual concerned.

7/23/2024

X

CHAIRPERSON

I certify that herein is recorded the true and complete record of the proceedings of the Army Board for Correction of Military Records in this case.

REFERENCES:

1. Title 10, U.S. Code, section 1552(b), provides that applications for correction of military records must be filed within 3 years after discovery of the alleged error or injustice. This provision of law also allows the ABCMR to excuse an applicant's failure to timely file within the 3-year statute of limitations if the ABCMR determines it would be in the interest of justice to do so.

2. Army Regulation 635-40 (Physical Evaluation for Retention, Retirement, or Separation), in effect at the time, establishes the Army Physical Disability Evaluation System (PDES) according to the provisions of 10 USC 61 and DoDI 1332.18. Paragraph 4–24 (Disposition by the U.S. Army Physical Disability Agency), The USAPDA will dispose of the case by publishing orders or issuing proper instructions to subordinate headquarters, or return any disability evaluation case to PEB for clarification or reconsideration when newly discovered evidence becomes available and is not reflected in the findings and recommendations. b. Final disposition. Based upon the final decision of USAPDA or APDAB, USAPDA will issue retirement orders or other disposition instructions as follows:

- Permanent retirement for physical disability
- Placement on the TDRL
- Separation for physical disability with severance pay
- Separation for physical disability without severance pay
- Transfer of a Soldier who has completed at least 20 qualifying years of Reserve service, and otherwise qualifies for transfer
- Separation for physical disability without severance pay when the disability was incurred as a result of intentional misconduct, willful neglect, or during a period of unauthorized absence
- Release from active duty and return to retired status of retired Soldiers serving on active duty who are found physically unfit
- Return of the Soldier to duty when he or she is determined physically fit

3. AR 601-210 (Active and Reserve Components Enlistment Program) governs eligibility criteria, policies, and procedures for enlistment and processing into the Regular Army, U.S. Army Reserve, and Army National Guard. Chapter 3 prescribes the basic eligibility for prior-service applicants for enlistment and includes a list of Armed Forces RE codes used for administrative purposes and applicants should be advised that these codes are not to be considered derogatory in nature; they simply are codes used for identification of an enlistment processing procedure.

a. RE-1 applies to persons completing their term of active service who is considered qualified to reenter the U.S. Army.



b. RE-3 applies to persons who are not qualified for reentry or continuous service at the time of separation, but the disqualification is waivable. Soldiers in this category who desire to reenter military service, should contact a local recruiter who can best advise a Soldier on his/her eligibility for returning to military service. Those individuals can best advise a former service member as to the needs of the service at the time and are responsible for processing requests for enlistment waivers.

c. RE-4 applies to persons who are separated from last period of service with a nonwaivable disqualification. This includes anyone with a Department of the Army imposed bar to reenlistment in effect at time of separation or separated for any reason (except length of service retirement) with 18 or more years AFS.

//NOTHING FOLLOWS//