

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 27 June 2025

DOCKET NUMBER: AR20240012199

APPLICANT REQUESTS: in effect, correction of her DA Form 199 (Informal Physical Evaluation Board (IPEB) Proceedings) to show numerous additional conditions to be unfitting resulting in a permanent 100% disability evaluation for her service-connected disabilities.

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

- DD Form 149 (Application for Correction of Military Record)
- Department of Veterans Affairs (VA) Rating Decision, 23 April 2024
- Letter, VA, 1 May 2024

FACTS:

1. The applicant states, in effect, she received a letter from the VA which advised her that their decision represented a change to the rating originally assigned as part of the Integrated Disability Evaluation System (IDES). The decision could potentially warrant a change to her military record and/or an adjustment to the disability separation benefits she received from the Army.
2. Having 6 years, 2 months and 8 days total prior active service, the applicant entered active duty in the Regular Army on 2 April 2009.
3. Her Official Military Personnel File contains DA Form 199 which shows an IPEB convened on 10 January 2024, which found her physically unfit and recommended a rating of 80% and that her disposition be permanent disability retirement.
  - a. Section III (Medical Conditions Determined to be Unfitting) lists Migraines, including migraine variants rated at 50%; Fibromyalgia rated at 40%; and Diabetes mellitus type II rated at 20%.
  - b. The combined effect was considered in the fitness determination for conditions referred by the Medical Evaluation Board (MEB). In full consideration of Department of Defense Instruction (DoDI) 1332.18, Section 6.4,d., the PEB determined the applicant was fit for MEB diagnosed conditions 4-62.

4. The DA Form 199 contains the following statements in Section VI (Instructions and Advisory Statements):

a. This case was adjudicated as part of the Integrated Disability Evaluation System (IDES).

b. The ratings were combined in accordance with VA Schedule for Ratings Disabilities (VASRD) paragraph 4.25.

c. 50% combined with 40% = 70% combined with 20% = 76% which rounds to 80%.

d. As documented in the VA memorandum dated 5 January 2024, VA determined the specific VASRD code(s) to describe [the applicant's] condition(s). The PEB determined the disposition recommendation based on the proposed VA disability rating(s) and in accord with applicable statutes and regulations.

e. To satisfy the determination required by Section 10, paragraph 10.3 of DoDI 1332.18 (as implemented by Chapter 2, Section 3.3.2 of DoD FMR 7000.14-R, Volume 7A), the applicant's disability retirement is not due to a disability incurred in the line of duty in a combat zone or as the result of performing combat related operations.

5. On 11 January 2024, a PEB Liaison Officer informed the applicant of the findings and recommendations of the PEB and explained to the applicant the result of the findings and recommendations and her legal rights pertaining thereto.

6. On 11 January 2024, the applicant concurred with the PEB findings and recommendations and waived a formal hearing of her case. She did not request reconsideration of her VA ratings.

7. On 12 January 2024, the United States Army Physical Disability Agency (USAPDA) authenticated the PEB for the Secretary of the Army.

8. On 31 March 2024, she retired honorably in accordance with Army Regulation 635-40 (Disability Evaluation for Retention, Retirement, or Separation), Chapter 4, for disability, permanent.

9. She provides a VA Rating Decision, dated 23 April 2024, and letter dated 1 May 2024, which shows the VA, for IDES purposes, determined numerous additional conditions to be unfitting which resulted in a permanent 100% disability evaluation for her service-connected disabilities effective 1 April 2024. No future examination will be scheduled for her permanent and total disabilities.

MEDICAL REVIEW:

1. The Army Review Boards Agency (ARBA) Medical Advisor reviewed the supporting documents, the Record of Proceedings (ROP), and the applicant's available records in the Interactive Personnel Electronic Records Management System (iPERMS), the Health Artifacts Image Management Solutions (HAIMS) and the VA's Joint Legacy Viewer (JLV). The applicant requests review of her Army medical discharge record for possible adjustment/increase to her benefits. She referenced the VA benefits letter dated 01May2024 as the basis for the request. The applicant's mental health condition(s) were reviewed under separate cover.
2. The ABCMR ROP summarized the applicant's record and circumstances surrounding the case. The applicant entered the Regular Army 02Apr2009. Her MOS was Maintenance/Munitions Material Officer and later 90A Logistics Officer. She was honorably discharged and retired on 31Mar2024 under provisions of AR 635-40 chapter 4 for a permanent disability with disposition. Her service was characterized as Honorable.
3. Brief IDES Proceedings
  - a. 21Jun2023 DES Commander's Performance and Functional Statement (DA Form 7652). Command indicated that the applicant required long term care with unrestricted access to medical facilities. They stated that her performance was inadequate, and it appeared that the medical condition(s) negatively impacted her performance of duties.
  - b. 29Jun2023 Physical Profile Record (DA Form 3349). There were permanent P3 profiles for Pain Sensitization Syndrome; Headaches; and Diabetes Mellitus-Oral Medication (well controlled), with multiple associated functional activity limitations. All APFT events were prohibited.
  - c. 21Nov2023 MEB Proceedings (DA Form 3947) and IDES NARSUM. The MEB determined that the following conditions did not meet retention standards of AR 40-501 chapter 3: Migraines, Including Migraine Variants (para 3-31g); Fibromyalgia (para 3-30b); and Diabetes Mellitus Type II (para 3-29d2). Fifty-nine other conditions were reviewed and were found to meet medical retention standards. The applicant concurred with the MEB proceedings.
  - d. 05Jan2024 DES Proposed Rating. Pertinent details are discussed (para 4) below.
  - e. 10Jan2024 Informal PEB Proceedings (DA Form 199). The applicant found that the following conditions were unfitting for continued service: Migraines, Including Migraine Variants at 50% under code 8100; Fibromyalgia at 40% under code 5025; and Diabetes Mellitus Type II at 20% under code 7913. The recommended disposition was

permanent disability retirement at 80% total rating. The applicant concurred and waived a formal hearing of her case. She did not request reconsideration of the VA ratings.

#### 4. Summary of pertinent changes in the 23Apr2024 VA Rating Decision as compared to the 05Jan2024 DES Proposed Ratings granted to the applicant during IDES processing.

a. The total combined rating for the service-connected disabilities, was documented as 100% in the 05Jan2024 DES Proposed Rating and as 100% in the 23Apr2024 Rating Decision as well.

b. The new April 2024 Rating Decision subsumed the rating for the Rectus Diastasis Bilateral condition under the rating for the Lumbar Strain/Lumbar Spine Degenerative Arthritis condition, with a combined rating at 40%. Upon review, it was noted that rectus diastasis (abnormal separation between the right and left abdominus muscles) affects Muscle Group XIX, which acts upon and affects support and compression of the abdominal wall and lower thorax as well as flexion and lateral motions of spine, the same function of lumbar spine movement, flexion. A separate evaluation for joint manifestations and muscle damage acting on the same joint are prohibited if both conditions result in the same symptoms. Therefore, the rating for the 2 conditions was combined for 40% total. Both conditions were reviewed by the MEB and the PEB. *This change does not impact the applicant's Army disability rating because the PEB did not find either condition unfitting.*

c. The rating decision was deferred in the 05Jan2024 DES Proposed Rating and service connection was established during the new 23Apr2024 Rating Decision for the following conditions: Painful Scars, Anterior Trunk, Abdomen and Umbilicus Status Post Surgeries at 20%; Scars Left Hand at 0%; Scars Left Knee Status Post Lateral Ligament Release at 0%; and Scars Abdomen, Umbilicus Status Post Surgeries at 0%. The applicant did claim Scars, Bilateral Knees, Abdominal and Left Hand (VA Form 21-526EZ). The Left Hand Scar condition was the only scar condition documented to have been reviewed by the MEB and the PEB. It was listed as MEB diagnosis #54, Residual Pain Status Post Biopsy Wrist, Left; and was found to meet medical retention standards. The applicant was last seen for the left-hand biopsy on 13Jan2023 and at the time was without complaints for the biopsy site. There were no clinic visits with scar(s) as the primary treatment focus. There were no physical profiles for a scar(s) condition indicating that they interfered with wearing the uniform or that interfered with duty performance. The Left Hand Scar condition was not found to be unfitting by the PEB.

#### 5. Summary/Opinion

a. The applicant referred to the narrative in the VA benefits letter dated 01May2024 as the basis for her request for review of her case. The applicant was advised in the narrative concerning the 23Apr2024 Rating Decision: "This decision represented a

change to a rating originally assigned as part of the Integrated Disability Evaluation System. This decision could potentially warrant a change to your military record and/or an adjustment to the disability separation benefits...". The new April 2024 rating decision was carefully reviewed, and it was noted that the ratings for the conditions that the Informal PEB found unfitting, Migraines, Including Migraine Variants at 50% under code 8100; Fibromyalgia at 40% under code 5025; and Diabetes Mellitus Type II at 20% under code 7913; were unchanged in the more recent rating decision.

b. Army Regulation 635-40 (Physical Evaluation for Retention, Retirement, or Separation) establishes the Army Disability Evaluation System and sets forth policies, responsibilities, and procedures that apply in determining whether a servicemember is unfit because of physical disability to reasonably perform the duties of his or her office, grade, rank, or rating. Only the unfitting conditions or defects and those which contribute to unfitness are considered in arriving at the rated degree of incapacity warranting retirement or separation for disability.

c. The applicant's Army medical discharge processing was reviewed including both the MEB and PEB proceedings. In the undersigned's opinion, there were no additional conditions that failed medical retention standards of AR 40-501 chapter 3 and there were no additional conditions that appeared to contribute to the applicant's unfitness to continue to serve IAW AR 635-40 including the scar conditions that were added to the 23Apr2024 Rating Decision. Therefore, the changes to the new April 2024 VA rating decision do not warrant the need for adjustment to the applicant's current Army disability retirement benefits as no changes were made in that document to ratings of conditions that were found unfitting.

#### BEHAVIORAL HEALTH REVIEW:

a. The applicant is applying to the ABCMR requesting a 100% permanent medical retirement. In part, the applicant asserts mental health conditions are related to her request. The specific facts and circumstances of the case can be found in the ABCMR Record of Proceedings (ROP). Pertinent to this advisory are the following: 1) After prior active service, the applicant entered active duty in the Regular Army on 2 April 2009; 2) An IPEB convened on 10 January 2024, which found the applicant physically unfit and recommended a rating of 80% for physical conditions and that her disposition be permanent disability retirement. She concurred with the findings on 11 January 2024; 3) On 31 March 2024, she retired honorably, Chapter 4, for disability, permanent.

b. The Army Review Board Agency (ARBA) Medical Advisor reviewed the supporting documents and the applicant's available military service and medical records. The VA's Joint Legacy Viewer (JLV) and hardcopy VA medical documentation provided by the applicant were also examined.

c. The applicant asserts she should have received a 100% permanent medical retirement. In part, the applicant asserts mental health conditions are related to her request. There is evidence the applicant was initially seen by behavioral health services in 2018 related reported insomnia. She was diagnosed with a sleep disorder and seen for only a few sessions. Later in 2022, the applicant again engaged in behavioral health services for problems related to sleep and anxiety related to work problems stemming from not getting enough sleep. She was diagnosed with an Adjustment Disorder and a sleep disorder and continued in regular individual therapy and referred to a prescribing behavioral health provider. The applicant continued in regular monthly therapy or bi-weekly therapy and medication management appointments. She did continue to report some stress, anxiety, insomnia, and depressive symptoms related to pain and occupational problems. She was consistently diagnosed with an Adjustment Disorder and/or a sleep problem till her discharge. Also, her PEB did not determine she was found unfit related to a mental health condition. There was insufficient evidence the applicant was determined to not meet medical retention standards for a mental health condition despite being seen by behavioral health services on numerous occasions; required two inpatient psychiatric admissions; or was ever placed on a permanent psychiatric profile while on active service.

d. A review of JLV provided evidence the applicant began to engage with the VA immediately following her discharge. She was diagnosed with service-connected Major Depression (currently 70%SC). The applicant has actively engaged in treatment at the VA.

e. Based on the available information, it is the opinion of the Agency Medical Advisor that there is sufficient evidence the applicant was treated for behavioral health symptoms related to her physical concerns, including pain during her active service. However, there is insufficient evidence the applicant, during her active service; was determined to not meet medical retention standards for a mental health condition; required two inpatient psychiatric admissions; or was ever placed on a permanent psychiatric profile. Therefore, there is insufficient evidence the applicant's case warrants a referral to IDDES to be assessed for an increased disability percentage resulting in a 100% permanent medical retirement as a result of a mental health condition.

(1) Did the applicant have a condition or experience that may excuse or mitigate the misconduct? No. There is sufficient evidence the applicant was treated for behavioral health symptoms related to her physical concerns, including pain during her active service. However, there is insufficient evidence the applicant, during her active service; was determined to not meet medical retention standards for a mental health condition; required two inpatient psychiatric admissions; or was ever placed on a permanent psychiatric profile. Therefore, there is insufficient evidence the applicant's case warrants

a referral to IDES to be assessed for an increased disability percentage resulting in a 100% permanent medical retirement as a result of a mental health condition.

(2) Did the condition exist or experience occur during military service? N/A.

(3) Does the condition or experience actually excuse or mitigate the misconduct?  
N/A.

#### BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was not warranted. The Board carefully considered the applicant's record of service, documents submitted in support of the petition, and executed a comprehensive review based on law, policy, and regulation. Upon review of the applicant's petition, available military records, and the medical reviews, the Board concurred with the medical advisor's reviews for both medical and behavioral health issues:

a. The applicant's Army medical discharge processing was reviewed including both the MEB and PEB proceedings. There were no additional conditions that failed medical retention standards of AR 40-501 chapter 3 and there were no additional conditions that appeared to contribute to the applicant's unfitness to continue to serve IAW AR 635-40 including the scar conditions that were added to the 23 April 2024 Rating Decision. Therefore, the changes to the new April 2024 VA rating decision do not warrant the need for adjustment to the applicant's current Army disability retirement benefits as no changes were made in that document to ratings of conditions that were found unfitting.

b. Although there is sufficient evidence the applicant was treated for behavioral health symptoms related to her physical concerns, including pain during her active service, there is insufficient evidence the applicant, during her active service; was determined to not meet medical retention standards for a mental health condition; required two inpatient psychiatric admissions; or was ever placed on a permanent psychiatric profile. Therefore, there is insufficient evidence the applicant's case warrants a referral to IDES to be assessed for an increased disability percentage resulting in a 100% permanent medical retirement as a result of a mental health condition.

2. Based upon the misconduct leading to the applicant's separation and the following recommendation found in the medical review related to the liberal consideration:

(1) Did the applicant have a condition or experience that may excuse or mitigate the misconduct? No. There is sufficient evidence the applicant was treated for behavioral health symptoms related to her physical concerns, including pain during her active service. However, there is insufficient evidence the applicant, during her active service; was determined to not meet medical retention standards for a mental health condition; required two inpatient psychiatric admissions; or was ever placed on a permeant psychiatric profile. Therefore, there is insufficient evidence the applicant’s case warrants a referral to IDES to be assessed for an increased disability percentage resulting in a 100% permeant medical retirement as a result of a mental health condition.

(2) Did the condition exist or experience occur during military service? N/A.

(3) Does the condition or experience actually excuse or mitigate the misconduct? N/A.

The Board concluded there was insufficient evidence of an error or injustice warranting a change to the applicant’s disability rating.

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.



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, chapter 61, provides the Secretaries of the Military Departments with authority to retire or discharge a member if they find the member unfit to perform military duties because of physical disability. The USAPDA, under the operational control of the Commander, U.S. Army Human Resources Command (AHRC), is responsible for administering the DES and executes Secretary of the Army decision-making authority as directed by Congress in chapter 61 and in accordance with Department of Defense (DoD) Directive 1332.18 and Army Regulation 635-40.

a. The objectives of the system are to:

- maintain an effective and fit military organization with maximum use of available manpower
- provide benefits for eligible Soldiers whose military service is terminated because of service-connected disability
- provide prompt disability processing while ensuring that the rights and interests of the government and the Soldier are protected

b. Soldiers are referred to the DES:

- when they no longer meet medical retention standards in accordance with Army Regulation 40-501 (Standards of Medical Fitness), chapter 3, as evidenced in a MEB

- receive a permanent medical profile, P3 or P4, and are referred by an MOS Medical Retention Board
- are command-referred for a fitness-for-duty medical examination
- are referred by the Commander, AHRC

c. The DES assessment process involves two distinct stages: the MEB and the PEB. The purpose of the MEB is to determine whether the service member's injury or illness is severe enough to compromise his/her ability to return to full duty based on the job specialty designation of the branch of service. A PEB is an administrative body possessing the authority to determine whether or not a service member is fit for duty. A designation of "unfit for duty" is required before an individual can be separated from the military because of an injury or medical condition. Service members who are determined to be unfit for duty due to disability are either separated from the military or are permanently retired, depending on the severity of the disability and length of military service. Individuals who are "separated" receive a one-time severance payment, while veterans who retire based upon disability receive monthly military retirement payments and have access to all other benefits afforded to military retirees.

d. The mere presence of a medical impairment does not in and of itself justify a finding of unfitness. In each case, it is necessary to compare the nature and degree of physical disability present with the requirements of the duties the Soldier may reasonably be expected to perform because of his or her office, grade, rank, or rating. Reasonable performance of the preponderance of duties will invariably result in a finding of fitness for continued duty. A Soldier is physically unfit when a medical impairment prevents reasonable performance of the duties required of the Soldier's office, grade, rank, or rating.

2. Army Regulation 40-501 provides that for an individual to be found unfit by reason of physical disability, he or she must be unable to perform the duties of his or her office, grade, rank or rating. Performance of duty despite impairment would be considered presumptive evidence of physical fitness.

3. Army Regulation 635-40 establishes the Army DES and 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. It provides that an MEB is convened to document a Soldier's medical status and duty limitations insofar as duty is affected by the Soldier's status. A decision is made as to the Soldier's medical qualifications for retention based on the criteria in Army Regulation 40-501. Disability compensation is not an entitlement acquired by reason of service-incurred illness or injury; rather, it is provided to Soldiers whose service is interrupted and who can no longer continue to reasonably perform because of a physical disability incurred or aggravated in service.

4. Directive Type Memorandum (DTM) 11-015 explains the IDES. It states:

a. The IDES is the joint Department of Defense (DoD)-VA process by which DoD determines whether wounded, ill, or injured service members are fit for continued military service and by which DoD and VA determine appropriate benefits for service members who are separated or retired for a service-connected disability. The IDES features a single set of disability medical examinations appropriate for fitness determination by the Military Departments and a single set of disability ratings provided by VA for appropriate use by both departments. Although the IDES includes medical examinations, IDES processes are administrative in nature and are independent of clinical care and treatment.

b. Unless otherwise stated in this DTM, DoD will follow the existing policies and procedures requirements promulgated in DoD Instruction 1332.18 and the Under Secretary of Defense for Personnel and Readiness memoranda. All newly initiated, duty-related physical disability cases from the Departments of the Army, Air Force, and Navy at operating IDES sites will be processed in accordance with this DTM and follow the process described in this DTM unless the Military Department concerned approves the exclusion of the service member due to special circumstances. Service members whose cases were initiated under the legacy DES process will not enter the IDES.

c. IDES medical examinations will include a general medical examination, and any other applicable medical examinations performed to VA Compensation and Pension standards. Collectively, the examinations will be sufficient to assess the member's referred and claimed condition(s) and assist VA in ratings determinations and assist military departments with unfit determinations.

d. Upon separation from military service for medical disability and consistent with the Board for Correction of Military Records (BCMR) procedures of the Military Department concerned, the former service member may request correction of his or her military records through his or her respective Military Department BCMR if new information regarding his or her service or condition during service is made available that may result in a different disposition. For example, a veteran appeals VA's disability rating of an unfitting condition based on a portion of his or her service treatment record that was missing during the IDES process. If the VA changes the disability rating for the unfitting condition based on a portion of his or her service treatment record that was missing during the IDES process and the change to the disability rating may result in a different disposition, the service member may request correction of his or her military records through his or her respective Military Department BCMR.

e. If, after separation from service and attaining veteran status, the former service member desires to appeal a determination from the rating decision, the veteran has

1 year from the date of mailing of notice of the VA decision to submit a written notice of disagreement with the decision to the VA regional office of jurisdiction.

5. Title 38, U.S. Code, sections 1110 and 1131, permits the VA to award compensation for a medical condition which was incurred in or aggravated by active military service. The VA, however, is not required by law to determine medical unfitness for further military service. The VA, in accordance with its own policies and regulations, awards compensation solely on the basis that a medical condition exists and that said medical condition reduces or impairs the social or industrial adaptability of the individual concerned. The VA can evaluate a veteran throughout his or her lifetime, adjusting the percentage of disability based upon that agency's examinations and findings. However, these changes do not call into question the application of the fitness standards and the disability ratings assigned by proper military medical authorities during the applicant's processing through the Army DES.

6. Title 10, U.S. Code, section 1201, provides for the physical disability retirement of a member who has at least 20 years of service or a disability rated at least 30 percent.

7. Title 10, U.S. Code, section 1203, provides for the physical disability separation with severance pay of a member who has less than 20 years of service and a disability rated less than 30 percent.

8. Section 1556 of Title 10, U.S. Code, requires the Secretary of the Army to ensure that an applicant seeking corrective action by the Army Review Boards Agency (ARBA) be provided with a copy of any correspondence and communications (including summaries of verbal communications) to or from the Agency with anyone outside the Agency that directly pertains to or has material effect on the applicant's case, except as authorized by statute. ARBA medical advisory opinions and reviews are authored by ARBA civilian and military medical and behavioral health professionals and are therefore internal agency work product. Accordingly, ARBA does not routinely provide copies of ARBA Medical Office recommendations, opinions (including advisory opinions), and reviews to ABCMR applicants (and/or their counsel) prior to adjudication.

//NOTHING FOLLOWS//