

RECORD OF PROCEEDINGS
PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXXXXXX
BRANCH OF SERVICE: ARMY

CASE: PD-2021-00114
SEPARATION DATE: 20020722

SUMMARY OF CASE: Data extracted from the available evidence of record reflects this covered individual (CI) was an active duty E4, Patient Administrative Specialist, medically separated for "low back pain" and "right hip and knee pain," rated 10% and 0%, respectively, with a combined disability rating of 10%.

CI CONTENTION: The VA gave him a higher rating for the conditions. The CI also requested review of additional conditions not identified by the Medical Evaluation Board (MEB) and/or Physical Evaluation Board (PEB). The complete submission is at Exhibit A.

SCOPE OF REVIEW: The panel's scope of review is defined in DoDI 6040.44. It is limited to review of disability ratings assigned to those conditions determined by the PEB to be unfitting for continued military service, and when specifically requested by the CI, those conditions identified by the MEB, but determined by the PEB to be not unfitting or non-compensable. Any conditions outside the panel's defined scope of review, and any contention not requested in this application, may remain eligible for future consideration by the Board for Correction of Military Records. The panel's authority is limited to assessing the fairness and accuracy of PEB rating determinations and recommending corrections when appropriate. The panel gives consideration to VA evidence, particularly within 12 months of separation, but only to the extent that it reasonably reflects the severity of disability at the time of separation.

RATING COMPARISON:

SERVICE PEB - 20020429			VARD - NA			
Condition	Code	Rating	Condition	Code	Rating	Exam
Chronic Low Back Pain (LBP)	5295	10%	No VA Examination Proximate to Separation in Evidence			
Right Hip and Knee Pain	5099-5003	0%				
COMBINED RATING: 10%			COMBINED RATING OF ALL VA CONDITIONS: NA			

ANALYSIS SUMMARY:

LBP. According to the service treatment record (STR) and MEB narrative summary (NARSUM), the CI's LBP began in November 1999 with unknown etiology. As part of his medical workup, lumbosacral X-rays revealed mild scoliosis, suspected spinal stenosis of L5-S1, and spondylolysis of L5 on the right side. In August 2001, he reported occasional LBP associated with right hip pain. A CT scan showed minimal loss of disc height at L5-S1 and scoliosis. No pars defects, herniated discs, or central spinal canal or foraminal stenoses were noted.

During the 15 January 2002 MEB examination (recorded on Standard Forms 88 and 93), 6 months prior to separation, the CI reported recurrent back pain. The examiner recorded back range of motion (ROM) as "45-75 degrees," extension to 40 degrees (normal 30), right and left rotation "greater than 45 degrees [normal 30]," and right and left lateral flexion to 30 degrees (normal). At MEB NARSUM examination the same day, the CI complained of LBP on the right side. The examiner noted tenderness at L4-5 and referred to the back ROM from the MEB

examination. Lower extremity strength was normal, and sensation was intact to light touch. There was no VA examination proximate to separation in evidence.

The panel directed attention to its rating recommendation based on the above evidence. The PEB rated the low back condition 10%, coded 5295 (lumbosacral strain), citing minor loss of ROM with characteristic pain on motion. The current VASRD rating guidelines for the spine, which are based on limitation of thoracolumbar ROM expressed in degrees, were not in effect until 26 September 2003, after the examinations documented in the STR. Thus, the panel is required to apply the VA rating rules in effect at the time of the CI's separation. Panel members noted that while there was evidence of "characteristic pain on motion" for a 10% rating under code 5295, there was no evidence of muscle spasm on forward bending and/or loss of lateral motion on standing for the next higher rating. There was also no evidence of lumbar spine ankyloses (5289), moderate limitation of lumbar spine motion (5292), or intervertebral disc syndrome (5293) for consideration of higher ratings under those respective codes. There was therefore no higher rating than the 10% rated adjudicated by the PEB. After due deliberation, considering all the evidence and mindful of VASRD §4.3 (reasonable doubt), the panel concluded that there was insufficient cause to recommend a change in the PEB adjudication for the low back condition.

Right Hip and Knee Pain. The PEB bundled the right hip and knee pain and provided a single disability rating of 0%, citing the US Army Physical Disability Agency pain policy. The evidence for the right hip and right knee conditions is presented together with attendant recommendations regarding separate unfitness and separate rating if indicated.

According to the STR and MEB NARSUM, the CI was initially examined in November 1999 for an 8-month history of right hip and knee pain, aggravated by running and ruck marching. He was referred to physical therapy (PT) with resulting diagnoses of 'snapping' psoas muscle of the right hip, and patellofemoral pain syndrome (PFPS) of the right knee. Right hip and knee X-rays at the time were normal, but 6 months later, a right knee MRI showed meniscal degeneration. Orthopedic referral in May 2000 agreed with the PFPS diagnosis. In May 2001, the CI returned to his primary care physician for right hip and knee pain after an 8-mile road march. He was treated conservatively and attended PT for 4 months without benefit. He was also referred to physical medicine for occasional back pain associated with the hip pain. The CI was put on permanent P3 profile and there was no commander's statement in the record.

During the MEB examination, the CI reported swollen/painful joints, but no further information. Physical findings consisted of a check mark next to "normal" for lower extremities, spine, and the neurologic examination. On the same day, the MEB NARSUM examiner noted CI complaints of right hip pain. Measured right hip ROM revealed flexion to 90 degrees (normal 125) and extension to 30 degrees (normal). Lower extremity strength was normal, but anterior hip pain increased with resisted psoas muscle action. There was piriformis tenderness along the right inguinal line, and tests were positive for piriformis syndrome, bursitis, and snapping hip. Physical examination of the right knee showed discomfort of the medial and lateral joint lines, and ROM from 5-140 degrees (normal 0-140). The examiner indicated the CI was unable to perform the biennial 12-mile road march or pass the Army physical fitness test. There was no VA examination proximate to separation in evidence.

The panel first considered whether the right knee and right hip conditions, having been decoupled from the combined PEB adjudication, remained separately unfitting. Bundled conditions are reasonably considered to be separately unfit for rating unless a preponderance of evidence shows an individual condition is not unfit and therefore not separately ratable. The CI was given a permanent L3 profile and the NARSUM examiner implicated both conditions. Panel members agreed the evidence reasonably justified that both conditions contributed to

the CI's inability to perform military duties, and accordingly recommend separate disability ratings.

The panel next directed attention to its rating recommendation for the right hip condition. The PEB rated the right hip and knee condition 0%, analogously coded 5099-5003 (degenerative arthritis), citing the US Army Physical Disability Agency pain policy. Panel members agreed there was evidence of painful hip motion with functional loss to support a 10% rating (based on §4.59, §4.40 and §4.45). However, after considering other VASRD hip and analogous codes, all were less applicable and not advantageous for rating. There was therefore no higher rating than a 10% under any applicable VASRD §4.71a code. After due deliberation, considering all the evidence, the panel recommends a disability rating of 10% for the right hip condition, coded 5299-5252.

The panel next considered its rating recommendation for the right knee condition based on the above evidence. There was no evidence of painful motion with functional loss to support a 10% rating (based on §4.59, §4.40 and §4.45), and likewise no compensable limitation of flexion or extension under code 5260 or 5261. Panel members considered other VASRD knee and analogous codes, but all were less applicable and not advantageous for rating. No additional functional limitation was evidenced by the examinations, and thus, the panel concluded there was insufficient evidence to support a rating higher than 0% under any applicable VASRD §4.71a code. After due deliberation, considering all the evidence, the panel recommends a disability rating of 0% for the right knee condition, coded 5299-5261 (analogous code for PFPS).

BOARD FINDINGS: In the matter of the low back condition and IAW VASRD §4.71a, the panel recommends no change in the PEB adjudication. In the matter of the right hip condition, the panel recommends a disability rating of 10%, analogously coded 5299-5252 IAW VASRD §4.71a. In the matter of the right knee condition, the panel recommends a disability rating of 0%, coded 5299-5261 IAW VASRD §4.71a. There are no other conditions within the panel's scope of review for consideration.

The panel recommends the CI's prior determination be modified as follows, effective the date of medical separation:

CONDITION	VASRD CODE	PERMANENT RATING
Chronic Low Back Pain	5295	10%
Right Hip Pain	5299-5252	10%
Right Knee Pain	5299-5261	0%
	COMBINED	20%

The following documentary evidence was considered:

- Exhibit A. DD Form 294, dated 20211203, w/atchs
- Exhibit B. Service Treatment Record
- Exhibit C. Department of Veterans Affairs Record

AR20230003139, XXXXXXXXXXX

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Dear XXXXXXXXXXX:

The Department of Defense Physical Disability Board of Review (DoD PDBR) reviewed your application and found that your disability rating should be modified but not to the degree that would justify changing your separation for disability with severance pay to a permanent retirement with disability. I have reviewed the Board's recommendation and record of proceedings (copy enclosed) and I accept its recommendation. This will not result in any change to your separation document or the amount of severance pay. A copy of this decision will be filed with your Physical Evaluation Board records. I regret that the facts of the case did not provide you with the outcome you may have desired.

This decision is final. Recourse within the Department of Defense or the Department of the Army is exhausted; however, you have the option to seek relief by filing suit in a court of appropriate jurisdiction.