

RECORD OF PROCEEDINGS
PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXXXXXX
BRANCH OF SERVICE: ARMY

CASE: PD-2022-00005
SEPARATION DATE: 20041115

SUMMARY OF CASE: Data extracted from the available evidence of record reflects this covered individual (CI) was an active duty E6, Human Resources Specialist, medically separated for "chronic neck pain" with a disability rating of 10%.

CI CONTENTION: A 7-page statement was included with the application requesting a higher rating for the neck condition as well as a 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 – 20040826			VARD - 20050720			
Condition	Code	Rating	Condition	Code	Rating	Exam
Chronic Neck Pain	5237	10%	Degenerative Disc Disease...	5242	10%	20050211
COMBINED RATING: 10%			COMBINED RATING OF ALL VA CONDITIONS: 30%			

ANALYSIS SUMMARY:

Neck Pain. According to the service treatment record (STR) and MEB narrative summary (NARSUM), the CI's neck condition began in 1996 after doing an overhead press for physical training. Cervical spine X-rays in September 2003 showed some degenerative joint or disk disease at C5-C6 with very minimal neural foraminal stenosis.

At an orthopedic examination on 29 September 2003, the CI reported continued neck pain. She could touch her chin to her chest and extend it to look up at the ceiling while keeping her back in a vertical position. Side bending was symmetrical bilaterally at 60 degrees (normal 45), and rotation was also symmetrical bilaterally at 70 degrees (normal 80). She had no nerve involvement of either upper extremity as confirmed by electromyography (EMG) and nerve conduction velocity studies performed on 9 December 2003.

During the 16 July 2004 MEB examination (recorded on DD Forms 2807-1 and 2808), 4 months before separation, the CI reported constant neck pain and the examiner documented tenderness. On the same day at the MEB NARSUM examination, the CI complained of

approximately 70% neck pain and 30% left upper extremity radicular pain. Cervical spine range of motion (ROM), measured by physical therapy on 18 August 2004, showed flexion of 20 degrees (normal 45) and combined ROM of 135 degrees (normal 340), after repetition and with painful motion.

At the 11 February 2005 VA Compensation and Pension (C&P) examination, 2 months after separation, the CI reported daily pain at the base of her neck, rated at 5/10. On rare occasions, she took Naprosyn or Flexeril which “fully” relieved her pain; however, she did not like taking the medication because it gave her a “drugged feeling.” She reported flare-ups 1-2 times per month caused by lifting, carrying, or picking up heavy objects. Physical examination showed flexion of 40 degrees and combined ROM of 300 degrees. The examiner noted straightening of the cervical spine but found no muscle spasm.

The panel directed attention to its rating recommendation based on the above evidence. The PEB rated the neck condition 10%, coded 5237 (lumbosacral or cervical strain), citing restricted ROM due to pain alone. The VA also rated the neck condition 10%, coded 5242 (degenerative arthritis of the spine), based on the C&P examination, citing forward cervical spine flexion greater than 30 degrees but not greater than 40 degrees. Panel members agreed that a 20% rating, but no higher, was justified for limitation of flexion (greater than 15 degrees but not greater than 30 degrees) and combined ROM not greater than 170 degrees, as reported on the MEB NARSUM examination. After due deliberation, considering all the evidence and mindful of VASRD §4.3 (reasonable doubt), the panel recommends a disability rating of 20% for the neck condition, coded 5237.

BOARD FINDINGS: In the matter of the neck condition, the panel recommends a disability rating of 20%, coded 5237 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 Neck Pain	5237	20%

The following documentary evidence was considered:

- Exhibit A. DD Form 294, dated 20220120, w/atchs
- Exhibit B. Service Treatment Record
- Exhibit C. Department of Veterans Affairs Record

AR20230003144, XXXXXXXXXXX

XXXXXXXXXX

Dear XXXXXXXXXXX:

The Department of Defense Physical Disability Board of Review (DoD PDDBR) 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.

A copy of this decision has also been provided to the Department of Veterans Affairs.