

RECORD OF PROCEEDINGS
PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXXXXXXXXXXXX
BRANCH OF SERVICE: AIR FORCE

CASE: PD-2022-00044
SEPARATION DATE: 20060328

SUMMARY OF CASE: Data extracted from the available evidence of record reflects this covered individual (CI) was an active duty E3, Financial Management and Comptroller Journeyman, medically separated for “chronic back pain” with a disability rating of 10%.

CI CONTENTION: Review requested additional conditions not identified by the Medical Evaluation Board (MEB) and 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 - 20060213			VARD - 20070110			
Condition	Code	Rating	Condition	Code	Rating	Exam
Chronic Back Pain	5237	10%	Chronic Ligament Strain, Lumbar Spine with Herniated Disc T12-L1	5237	20%	20060811
COMBINED RATING: 10%			COMBINED RATING OF ALL VA CONDITIONS: 50%			

ANALYSIS SUMMARY:

Chronic Back Pain. According to the service treatment record (STR) and MEB narrative summary (NARSUM), the CI first experienced low back pain (LBP) in 2005. Lumbar spine X-rays in March 2005 showed normal results, but a thoracic spine MRI in August 2005 MRI revealed a small disc extrusion at T12-L1. At a physical therapy (PT) visit on 3 August 2005, 8 months prior to separation, the therapist noted an abnormal gait and muscle spasm. Thoracolumbar range of motion (ROM) measurements showed flexion to 60 degrees (normal 90), extension to 25 degrees (normal 30), and right and left lateral flexion to 25 degrees (normal 30), with no additional limitations from repetitive motion.

The 17 January 2006 MEB NARSUM examination, 2 months before separation, noted CI complaints of chronic LBP. Physical examination showed tenderness at L1-2 but no paralumbar spasm. No ROM measurements were recorded.

At the 11 August 2006 VA Compensation and Pension (C&P) examination, 5 months after separation, the CI reported constant, knife-like stabbing pain, rated at 6-10/10 and mostly

along the lower back. The examiner noted a normal posture and gait, with no abnormal spinal curvature or deformities. Measured ROM revealed flexion to 60 degrees and a combined ROM of 185 degrees. There was a mild spasm on forward flexion, and a further loss of 20 degrees of forward flexion and 5 degrees of left lateral flexion after repetition due to pain.

The panel directed attention to its rating recommendation based on the above evidence. The PEB rated the back condition 10%, coded 5237 (lumbosacral strain), citing Department of Defense and Veterans Administration Schedule for Rating Disabilities guidelines. The VA rated the back condition 20%, also coded 5237, based on the C&P examination, citing 60 degrees forward flexion with an additional loss of 20 degrees with repetitive ROM testing. Panel members agreed that a 20% rating, but no higher, was justified for limitation of flexion (greater than 30 degrees but not greater than 60 degrees) as reported on the PT and VA examinations proximate to separation. 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 back condition, coded 5237.

BOARD FINDINGS: In the matter of the chronic back pain, 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 Back Pain	5237	20%

The following documentary evidence was considered:

- Exhibit A. DD Form 294, dated 20220310, w/atchs
- Exhibit B. Service Treatment Record
- Exhibit C. Department of Veterans Affairs Record

SAF/MRB
3351 CELMERS LANE
JBA NAF WASHINGTON, MD 20762-6435

Dear XXXXXXXXXXXX:

Reference your application submitted under the provisions of DoDI 6040.44 (Section 1554, 10 USC), PDBR Case Number PD-2022-00044.

After careful consideration of your application and treatment records, the Physical Disability Board of Review determined that the rating assigned at the time of final disposition of your disability evaluation system processing was not in accordance with the guidelines of the Veterans Affairs Schedule for Rating Disabilities. Accordingly, the Board recommended modification of your assigned disability rating without re-characterization of your separation with severance pay.

I have carefully reviewed the evidence of record and the recommendation of the Board. I concur with that finding, accept the recommendation and direct that your records be corrected as set forth in the attached copy of a Memorandum for the Chief of Staff, United States Air Force. This will not result in any change to your separation documents or the amount of severance pay you are entitled to. Disability severance pay is computed the same regardless of a rating of 0, 10 or 20 percent.

Sincerely,