

RECORD OF PROCEEDINGS
PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXXXXXX
BRANCH OF SERVICE: ARMY

CASE: PD-2023-00004
SEPARATION DATE: 20051109

SUMMARY OF CASE: Data extracted from the available evidence of record reflects this covered individual (CI) was an active duty E5, Satellite Communications Systems Operator Maintainer, medically separated for “chondromalacia, left patella” with a disability rating of 0%.

CI CONTENTION: Review all conditions. 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 Physical Evaluation Board (PEB) to be unfitting for continued military service, and when specifically requested by the CI, those conditions identified by the Medical Evaluation Board (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 - 20050630			VARD - 20060815			
Condition	Code	Rating	Condition	Code	Rating	Exam
Chondromalacia, Left Patella	5099-5003	0%	Left Knee Chondromalacia, Status Post Arthroscopy with Subluxation	5099-5257	10%	20060125
COMBINED RATING: 0%			COMBINED RATING OF ALL VA CONDITIONS: 60%			

ANALYSIS SUMMARY:

Chondromalacia, Left Patella. According to the service treatment record (STR) and the MEB narrative summary (NARSUM), the CI underwent left knee meniscal surgery in October 2004. The 15 April 2005 MEB NARSUM examination, 7 months prior to separation, noted complaint of left knee pain with running. The CI denied giving way or locking. The left knee range of motion (ROM) study showed flexion of 130 degrees (normal 140) and extension of 0 degrees (normal). Motor and sensation were intact distally. Testing for meniscal pathology was negative and the knee was stable, but patellar grind caused pain. The 23 May 2005 MEB NARSUM addendum showed left knee ROM measurements as flexion 85 degrees and extension 10 degrees with painful motion. At the 25 January 2006 VA Compensation and Pension (C&P) examination, 3 months after separation, the CI reported left knee popping and throbbing, and pain when walking. Physical examination showed a normal gait. Knee ROM was flexion of 140 degrees and extension of 0 degrees, with no pain, fatigue, weakness, lack of endurance or incoordination. Although there was no lateral instability, the examiner noted left knee subluxation.

The panel directed attention to its rating recommendation based on the above evidence. The PEB rated the left knee condition 0%, analogously coded 5099-5003 (degenerative arthritis), citing only one joint involved. The VA rated the left knee condition 10%, analogously coded 5099-5257 (other impairment of knee), based on the C&P examination, citing slight recurrent subluxation or lateral instability of the knee.

Panel members found evidence of painful motion with functional loss supporting a 10% rating (based on §4.59, §4.40 and §4.45). The 5259 code (removal of cartilage) was also applicable in this case to support an alternative 10% rating. There was no limitation of flexion that supported a rating under code 5260 (limitation of flexion), the MEB examiner noted extension limited by 10 degrees due to pain, which supports a 10% alternative rating under code 5261 (limitation of leg extension). The panel found no history or evidence of dislocated meniscus or loose body causing frequent locking with recurrent effusions (5258) to support a rating under that code. There was no fracture, nonunion or malunion of the femur or tibia to support consideration under the respective codes for knee impairment related to long bone conditions (5255, 5262). There was therefore no higher rating than 10% available under any applicable VASRD code.

The panel considered if dual rating of the knee was warranted under codes 5259 and 5261. However, the CI's left knee extension was limited by pain and the panel concluded an additional rating in this case would be pyramiding. The assignment of ratings under separate codes for the same disability, in this case pain, is to be avoided IAW VASRD §4.14 (avoidance of pyramiding). After due deliberation, considering all the evidence and mindful of VASRD §4.3 (reasonable doubt), the panel recommends a disability rating of 10% for the left knee condition, coded 5099-5003.

BOARD FINDINGS: In the matter of the left knee condition, the panel recommends a disability rating of 10%, coded 5099-5003 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
Chondromalacia, Left Patella	5099-5003	10%

The following documentary evidence was considered:

- Exhibit A. DD Form 294, dated 20221209, w/atchs
- Exhibit B. Service Treatment Record

AR20230007848, XXXXXXXXXXX

Mr. XXXXXXXXXXX

Dear Mr. 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 Veteran Affairs.