

RECORD OF PROCEEDINGS
PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXXXXX
BRANCH OF SERVICE: AIR FORCE

CASE: PD-2023-00044
SEPARATION DATE: 20050722

SUMMARY OF CASE: Data extracted from the available evidence of record reflects this covered individual (CI) was an active duty E6, Supply Management Craftsman, medically separated for “chronic low back pain [LBP]” with a disability rating of 10%.

CI CONTENTION: Given a higher rating by the VA for the low back condition. 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 - 20050427			VARD - 20060613			
Condition	Code	Rating	Condition	Code	Rating	Exam
LBP	5243	10%	Lumbar Strain	5243-5237	20%	20060427
COMBINED RATING: 10%			COMBINED RATING OF ALL VA CONDITIONS: 60%			

ANALYSIS SUMMARY:

LBP. According to the service treatment record (STR) and MEB narrative summary (NARSUM), the CI’s low back condition began in October 2001 after he received three anthrax shots while deployed to Kuwait. Lumbar spine X-rays on 9 May 2003 showed joint space narrowing at some of the involved levels with endplate spurring. Although there were no acute bone or soft tissue findings, there were multi-level degenerative changes with multiple schmorl nodes in vertebral body endplates. An MRI on 23 December 2004 showed moderate, central, and bilateral posterior disc bulging at L4-5, which mildly narrowed the canal. The CI continued to complain of LBP at family practice visits in December 2004 and February 2005, but the examinations noted no tenderness, full range of motion (ROM), and 5/5 strength in all muscle groups.

At the 24 March 2005 MEB NARSUM examination, 4 months prior to separation, the CI reported being unable to stand or walk for prolonged periods, do pushups, or lift heavy objects due to his LBP. He also could not run for any distance without pain. Physical findings revealed no tenderness, and thoracolumbar ROM measurements showed flexion to 80 degrees (normal 90) and a combined ROM of 215 degrees (normal 240).

During the 27 April 2006 VA Compensation and Pension (C&P) examination, 9 months after separation, the CI complained of constant LBP with stiffness and weakness. The examiner documented a mild antalgic gait, spasms, and tenderness, but no weakness. Thoracolumbar flexion was to 60 degrees, with painful motion, and combined ROM was 180 degrees. After repetition, ROM was not additionally limited by pain, fatigue, weakness, or lack of endurance.

The panel directed attention to its rating recommendation based on the above evidence. The PEB rated the low back condition 10%, coded 5243 (intervertebral disc syndrome (IVDS)), citing Department of Defense and Veterans Administration Schedule for Rating Disabilities guidelines. The VA rated the low back condition 20%, dual-coded 5243-5237 (IVDS-lumbosacral strain), based on the C&P examination, citing thoracolumbar forward flexion greater than 30 degrees but not greater than 60 degrees. Panel members first noted that the MEB NARSUM examination carried the most probative value for rating as it was more proximate to separation and consistent with the STR, and thus better reflected the anticipated severity of the CI's LBP based on clinical pathology. Therefore, a 10% rating, but no higher, was justified for limitation of flexion (greater than 60 degrees but not greater than 85 degrees) and combined ROM (greater than 120 degrees but not greater than 235 degrees). There was no muscle spasm or guarding severe enough to result in an abnormal gait or spinal contour, thus the next higher 20% rating was not justified on this basis. There was no documentation IVDS with incapacitating episodes which would provide for a higher rating under that formula. After due deliberation, considering all the evidence and mindful of VASRD §4.3 (reasonable doubt), the panel concluded there was insufficient cause to recommend a change in the PEB adjudication for the LBP condition.

BOARD FINDINGS: In the matter of the low back condition and IAW VASRD §4.71a, the panel recommends no change in the PEB adjudication. There are no other conditions within the panel's scope of review for consideration. Therefore, the panel recommends no modification of re-characterization of the CI's disability and separation determination.

The following documentary evidence was considered:

- Exhibit A. DD Form 294, dated 20230517, 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 XXXXXX:

Reference your application submitted under the provisions of DoDI 6040.44 (Section 1554, 10 USC), PDBR Case Number PD-2023-00044.

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 appropriate. Accordingly, the Board recommended no rating modification or re-characterization of your separation.

I have carefully reviewed the evidence of record and the recommendation of the Board. I concur with that finding and their conclusion that modification of your disability rating or characterization of your separation is not warranted. Accordingly, I accept the recommendation that your application be denied.

Sincerely,

Attachment:
Record of Proceedings