

RECORD OF PROCEEDINGS
PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXXXXXX
BRANCH OF SERVICE: AIR FORCE

CASE: PD-2023-00045
SEPARATION DATE: 20030324

SUMMARY OF CASE: Data extracted from the available evidence of record reflects this covered individual (CI) was an active-duty Parachutist Weather Technician, medically separated for “lumber degenerative spondylosis” with a disability rating of 10%.

CI CONTENTION: “Mis diagnosed for severity of medical conditions at time of discharged.” 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 - 20030128			VARD - 20030818			
Condition	Code	Rating	Condition	Code	Rating	Exam
Lumber Degenerative Spondylosis	5295	10%	Degenerative Disc Disease with Spondylotic Changes Lumbar Spine	5295	10%	20030617
COMBINED RATING: 10%			COMBINED RATING OF ALL VA CONDITIONS: 20%			

ANALYSIS SUMMARY:

Lumber Degenerative Spondylosis. According to the service treatment record and MEB narrative summary (NARSUM), the CI first sought care for low back pain (LBP) in May 2002 and an MRI in June 2022 revealed degenerative spondylotic lumbar spine changes; surgery was not indicated.

The 20 December 2002 MEB NARSUM examination, 3 months prior to separation, noted complaints of LBP which waxed and waned. Range of motion (ROM) measurements showed “lumbar” flexion to 90 degrees; extension to -5 degrees, with pain; side bending to 20 degrees on the right and 25 degrees on the left, both with pain; and bilateral rotation to 15 degrees. Physical findings showed no scoliosis, motor/sensory deficits, or radicular symptoms, and motor strength was normal in all extremities.

At the 17 June 2003 VA Compensation and Pension (C&P) examination, 3 months after separation, the CI reported constant pain with occasional muscle swelling in the lower back. Upon examination, the CI demonstrated a normal gait, and bilateral straight leg raise tests were

negative. The examiner found lumbar spine tenderness, but no muscle spasms or pain radiation during movement. The provider noted “normal” ROM, but no measurements were recorded.

The panel directed attention to its rating recommendation based on the above evidence. The PEB rated the back condition 10%, coded 5295 (lumbosacral strain). The VA also rated the back condition 10%, coded 5295, based on the C&P examination, citing tenderness. In accordance with DoDI 6040.44, the panel is required to recommend its rating based on the Veteran Administration Schedule for Rating Disabilities (VASRD) in effect at the time of separation. In this case, the panel members must correlate the above clinical data with the 2003 VASRD spine standards, which were in effect at the CI’s date of separation but were changed to the current §4.71a rating standards in 2004. Unlike the current §4.71 rating standards, numerical ROM values were not a feature of the rating schedule in 2003.

Panel members noted that criteria under code 5295 warrants a 10% rating for a lumbar condition with characteristic pain on motion. The next higher 20% requires the presence of “muscle spasm on extreme forward bending, loss of lateral spine motion (unilateral) in standing position.” However, both the NARSUM and C&P examinations showed the CI had lateral spine motion on both sides and the C&P examiner also documented no muscle spasm. Therefore, this 20% rating was not justified. Panel members also considered code 5292 (limitation of motion of the lumbar spine) but agreed that a 20% rating for moderate limitation was not justified since the NARSUM and C&P examinations noted flexion to 90 degrees with a slight decrease in motion, and normal ROM, respectively. There was no evidence of intervertebral disc syndrome or incapacitating episodes requiring bedrest prescribed by a physician. Thus, the panel agreed that a 10% was supported based on characteristic pain on motion under code 5295. 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 low back condition.

BOARD FINDINGS: In the matter of the lumbar degenerative spondylosis 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 or re-characterization of the CI’s disability and separation determination.

The following documentary evidence was considered:

- Exhibit A. DD Form 294, dated 20230521, 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-2023-00045.

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