

RECORD OF PROCEEDINGS
PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXXXXXXXXXXXX
BRANCH OF SERVICE: NAVY

CASE: PD-2023-00047
SEPARATION DATE: 20060731

SUMMARY OF CASE: Data extracted from the available evidence of record reflects this covered individual (CI) was an active duty E6, Linguist, medically separated for “left-sided sciatica” with a disability rating of 20%.

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 - 20060417			VARD - 20080225			
Condition	Code	Rating	Condition	Code	Rating	Exam
Left-Sided Sciatica	5239-8720	20%	Left Leg Sciatica	8621	0%	20070413
Chronic Low Back Pain	Cat II		No VA Placement			
Spondylolysis L5 with Grade 1 Spondylolisthesis L5-S1	Cat II		Lumbar Spondylolisthesis	5239	10%	20070413
COMBINED RATING: 20%			COMBINED RATING OF ALL VA CONDITIONS: 40%			

ANALYSIS SUMMARY:

Left-Sided Sciatica. According to the service treatment record and MEB narrative summary (NARSUM), the CI’s left-sided sciatica began in January 2000 without any injury or incident. In November 2002, an MRI revealed spondylolysis and spondylolisthesis with disc involvement. An electromyography test on 14 December 2005 showed normal lower extremities, and an MRI on 21 December 2005 showed grade 1 spondylolisthesis at L5-S1 with bilateral spondylosis.

At the 27 January 2006 MEB NARSUM examination, 6 months prior to separation, the CI reported low back pain (LBP) after sitting or standing for more than 30 minutes. She rated the pain at 2-5/10, and stated that it occasionally radiated down the left leg to the heel. She had missed 3 days of work each month over the previous year due to the LBP and reported associated bowel and bladder difficulties. The examiner documented no acute distress and no local tenderness. Thoracolumbar range of motion (ROM) tests revealed flexion to 50 degrees (normal 90) and extension, right/left lateral flexion, and right/left rotation all to 30 degrees (normal). Combined

ROM was 200 degrees, with endpoint pain in all planes. Straight leg raises, lower extremity motor tests, deep tendon reflexes, and pinprick sensation were all normal.

At the 13 April 2007 VA Compensation and Pension (C&P) examination, 9 months after separation, the CI complained of constant, daily LBP rated at 2-6/10, and reported intermittent pain radiating down the left leg to the heel. She reported no periods of physician prescribed bedrest over the previous several years and did not use a back brace or assistive device. She stated that the back condition had not negatively impacted her current employment. Physical findings showed the CI was able to rise normally from a seated position and walked with a normal gait. Deep tendon reflexes were 2/4 in the bilateral upper and lower extremities, and there was normal sensation to light touch in both lower extremities. The CI reported LBP with bilateral straight leg raising to 80 degrees in the supine position. She was able to toe raise and heel-to-toe walk without distal motor weakness. There was no abnormal spinal curvature or spasm, but tenderness was present in lower lumbar region. Thoracolumbar ROM measurements demonstrated flexion to 65 degrees, extension to 30 degrees, and bilateral rotation and flexion to 20 degrees, for a combined ROM of 175 degrees. Pain was recorded during all measurements, with no further loss of ROM after repetition.

The panel directed attention to its rating recommendation based on the above evidence. The PEB rated left-sided sciatica 20%, dual coded 5239-8720 (spondylolisthesis-sciatic nerve) and listed chronic LBP and spondylolysis L5 with grade I spondylolisthesis as Category II conditions contributing to the disability in this case. Panel members agreed these related diagnoses were not conditions that could be separately rated IAW §4.14 (avoidance of pyramiding; more than one rating based on the same impairment is prohibited). The VA rated lumbar spondylolisthesis 10%, coded 5239 citing forward flexion greater than 60 degrees. The VA assigned a 0% rating for left leg sciatica, coded 8261 (external popliteal nerve (common peroneal)), citing a noncompensable evaluation unless there is mild, incomplete paralysis of foot movements. The panel first noted that the Joint Disability Evaluation Tracking System findings indicated the CI demonstrated moderate symptoms for sensory-only (neuralgia) involvement even though she had no motor impairment, sensory deficit, or decreased ROM. Also, the NARSUM and C&P examinations recorded normal motor and sensory examinations with a primary complaint of LBP that radiated down the left leg to the heel, but no reported motor function loss of the foot or leg, or sciatic pain requiring physician prescription for bedrest. Provocative maneuvers for signs of radiculopathy or radiating pain due to spinal nerve root or sciatic nerve involvement were negative. Physical findings noted normal gait and spinal contour with no paraspinal muscle spasm, as well as normal reflexes and strength. Electrodiagnostic studies revealed no evidence of a left lower extremity radiculopathy. Therefore, panel members agreed that a 20% rating, but no higher, was justified for the left-sided sciatica with spondylolisthesis under dual code of 5239-8720. 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 left-sided sciatica.

BOARD FINDINGS: In the matter of the left sided sciatica and IAW VASRD §4.124a, 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 20230513, w/atchs
Exhibit B. Service Treatment Record
Exhibit C. Department of Veterans Affairs Record



DEPARTMENT OF THE NAVY
SECRETARY OF THE NAVY COUNCIL OF REVIEW BOARDS
720 KENNON STREET SE STE 309
WASHINGTON NAVY YARD, DC 20374-5023

IN REPLY REFER TO
6040
CORB: 001
28 Dec 2023

From: Director, Secretary of the Navy Council of Review Boards
To: XXXXXXXXXXXXXXX

Subj: Physical Disability Board of Review Determination

Ref: (a) DODI 6040.44(Series)

1. The Physical Disability Board of Review (PBDR) reviewed your case in accordance with reference (a) and forwarded their recommendation for action.
2. On 21 December 2023, the Assistant Secretary of the Navy (Manpower and Reserve Affairs) accepted the PBDR's recommendation of no change to your characterization of separation or disability rating assigned.
3. The PBDR determination is final and not subject to appeal or review.

Date: 2023.12.28
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