

RECORD OF PROCEEDINGS
PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXXXXXXXXXXXX
BRANCH OF SERVICE: ARMY

CASE: PD-2023-00085
SEPARATION DATE: 20040801

SUMMARY OF CASE: Data extracted from the available evidence of record reflects this covered individual (CI) was an active duty E5, Medical Equipment Repairer, medically separated for “degenerative disc and joint disease [DDD and DJD], multilevel, cervical spine without radiculopathy” 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 - 20040415			VARD – 20050412			
Condition	Code	Rating	Condition	Code	Rating	Exam
DDD and DJD, Multilevel, Cervical Spine without Radiculopathy	5242	0%	Cervical Spine Spondylosis and DDD	5010-5243	20%	20040714
Low Back Pain	Not Unfitting		Lumbosacral Spine DDD, DJD	5010-5243	10%	20040714
Positive Tuberculin Skin Test			Positive PPD	6799-6723	NSC	20040714
Cold Intolerance			Residuals of Cold Weather Injuries: Right and Left Foot Right and Left Hand Right and Left Ear Nose	7122	10% + 10% 10% + 10% 10% + 10% 10%	20040714
Left Shoulder Impingement			Left Shoulder Impingement	5201	0%	20040714
Chronic Rhinitis			Chronic Rhinitis	6522	0%	20040714
Retropatellar Pain Syndrome			Left Knee Lateral Collateral Ligament Injury	5260	0%	20040714
Palpitations			Physical Stress-Induced Tachycardia	7010	0%	20040714
Pes Planus			Bilateral Pes Planus	5276	0%	20040714
Vision Defect			No Va Placement			
Tinnitus, High Frequency Loss			Tinnitus	6260	10%	20040714
Hyperlipidemia			Hyperlipidemia	7199-7114	NSC	20040714
COMBINED RATING: 0%			COMBINED RATING OF ALL VA CONDITIONS: 70%			

ANALYSIS SUMMARY:

Multilevel Cervical Spine DDD and DJD without Radiculopathy. According to the service treatment record and MEB narrative summary (NARSUM), the right-hand dominant CI began experiencing upper back pain radiating into the right upper extremity in the mid- 1990s. In May 2003, X-rays suggested DDD at C5-6 and C6-7. An MRI in July 2003 showed disc herniation at C5-6 and C6-7 on the right, plus facet arthropathy and spinal stenosis.

At the 23 February 2004 MEB examination (recorded on DD Forms 2807-1 and 2808), 5 months prior to separation, the CI complained of continuous radicular pain going down his left arm. Physical examination revealed no tenderness or spasm. Cervical spine flexion was to 45 degrees (normal) and extension to 25 degrees (normal 45) with increased pain up to 30 degrees. Left and right lateral flexion was to 15 degrees (45 normal), left lateral rotation to 50 degrees (normal 80) and right lateral rotation to 45 degrees, for a combined ROM of 195 degrees. All ROMs were limited by pain except for forward flexion and left lateral flexion. The same examiner conducted the 23 March 2004 MEB NARSUM examination, 4 months before separation. The CI reported intermittent, posterior right neck pain occasionally radiating to the left or right upper extremity and provoked by postural changes such as sitting with his neck extended or sleeping in the wrong position. Physical findings showed no cervical spine tenderness, spasm, or visible deformity.

At the 14 July 2004 VA Compensation and Pension (C&P) examination, 1 month before separation, the CI reported his neck pain had improved since he discontinued physical training, but he still experienced discomfort when lifting heavy objects. Physical examination revealed some loss of the normal lordotic curvature. Cervical spine flexion was to 45 degrees and lateral flexion to 50 degrees on both sides, with some endpoint discomfort. Against hand resistance, the CI was able to go through the same ROM with no increase in pain, loss of motion, instability or incoordination. The examiner documented minimal numbness in the left index finger and normal left arm strength.

The panel directed attention to its rating recommendation based on the above evidence. The PEB rated the cervical spine condition 0%, coded 5242 (degenerative arthritis of the spine), citing ROM that was not significantly restricted (flexion 45 degrees, with some lateral restriction due to pain alone). The VA rated the cervical spine condition 20%, dual-coded 5010-5243 (traumatic arthritis-intervertebral disc syndrome (IVDS)), based on the C&P examination, citing objective findings that indicated numbness in the first finger of the left hand. The panel agreed that a 10% rating, but no higher, was justified for combined ROM greater than 170 degrees but not greater than 335 degrees, as reported on the NARSUM and VA examinations. 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 of 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 recommends a disability rating of 10% for the cervical spine condition, coded 5242.

Contended PEB Conditions: Low Back Pain, Positive Tuberculin Skin Test; Cold Intolerance; Left Shoulder Impingement; Chronic Rhinitis; Retropatellar Pain Syndrome; Palpitations; Vision Defect; Tinnitus, High Frequency Loss; Pes Planus; and Hyperlipidemia. The panel's main charge is to assess the fairness of the PEB determination that the contended conditions were not unfitting. None of the conditions were profiled or implicated in the commander's statement, and none failed retention standards. There was no performance-based evidence from the record that any of the conditions significantly interfered with satisfactory duty performance at separation. After due deliberation, the panel concluded there was insufficient cause to recommend a change in the PEB fitness determination for any of the contended conditions, so no additional disability ratings are recommended.

BOARD FINDINGS: In the matter of the cervical spine condition, the panel recommends a disability rating of 10%, coded 5242 IAW VASRD §4.71a. In the matter of the contended low back pain, positive tuberculin skin test, cold intolerance, left shoulder impingement, chronic rhinitis, retropatellar pain syndrome, palpitations, vision defect, tinnitus, high frequency loss, pes planus, and hyperlipidemia, the panel recommends no change from the PEB determinations as not unfitting. 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
Degenerative DDD and DJD, Multilevel, Cervical Spine without Radiculopathy	5242	10%

The following documentary evidence was considered:

- Exhibit A. DD Form 294, dated 20231009, w/atchs
- Exhibit B. Service Treatment Record
- Exhibit C. Department of Veterans Affairs Record

AR20240005412

Dear XXXXXXX:

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 Veterans Affairs.