

RECORD OF PROCEEDINGS
PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXXXXXXXX
BRANCH OF SERVICE: ARMY

CASE: PD-2024-00025
SEPARATION DATE: 20050713

SUMMARY OF CASE: Data extracted from the available evidence of record reflects this covered individual (CI) was an active duty E6, Food Service Specialist, medically separated from the Temporary Disability Retired List (TDRL) for “asthma” with a disability rating of 10%.

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			VARD - 20050516			
Condition	Code	Rating	Condition	Code	Rating	Exam
Asthma	6602	10%	Asthma	6602	10%	20050310
COMBINED RATING: 10%			COMBINED RATING OF ALL VA CONDITIONS: 40%			

ANALYSIS SUMMARY:

Asthma. According to the service treatment record (STR) and MEB narrative summary (NARSUM), the CI had a comprehensive pulmonary evaluation in September 2003 and was diagnosed with mild to moderate, persistent asthma. She was started on Flovent (inhalational steroid) twice a day, and albuterol (inhalational bronchodilator) as needed and 20 minutes prior to exercise. She was also prescribed Flonase (inhaled corticosteroid) twice a day, as well as Zyrtec (antihistamine) and Singulair (oral indirect-acting bronchodilator) nightly. The CI was separated and placed on the TDRL on 20 April 2004 with a 30% disability rating.

At the 10 March 2005 VA Compensation and Pension (C&P) general examination, 4 months before separation, the CI reported using inhalational bronchodilators (Proventil, albuterol) daily, and a pulmonary function test (PFT) showed an FEV-1 of 74% of predicted and an FEV-1/FVC of 87%. At the 26 January 2006 VA C&P respiratory examination, 6 months after separation, the examiner noted the CI was using an albuterol inhaler 2-3 times day, Advair (inhalational steroid/bronchodilator combination) inhaler once a day, Singulair tablets once a day, and fluticasone (corticosteroid) inhaler once a day. A PFT showed an FEV-1 of 50% of predicted and an FEV-1/FVC of 93%.

The panel directed attention to its rating recommendation based on the above evidence. The CI was removed from the TDRL with a permanent disability disposition of separation with severance pay at 10%. The VA rated the asthma 10%, coded 6602 (asthma), based on the C&P examination, citing FEV-1 of 71 to 80 percent of predicted, or; value FEV-1/FVC of 71 to 80 percent, or; intermittent inhalational or oral bronchodilator therapy. A 30% rating requires "FEV-1 of 56- to 70-percent predicted, or; FEV-1/FVC of 56 to 70 percent, or; daily inhalational or oral bronchodilator therapy, or; inhalational anti-inflammatory medication." Panel members considered the STR evidence which documented current prescriptions for and use of daily bronchodilators as well as inhaled anti-inflammatory medication. The panel noted the TDRL examination and the PEB proceedings were not available, but prior to TDRL removal, the CI was using Advair and her medication profile showed refills of this anti-inflammatory prescription in the months prior to permanent separation, and beyond. Thus, panel members agreed the VASRD §4.97 threshold for a 30% rating was reasonably met based on bronchodilator and/or inhalational anti-inflammatory medication use. A 60% rating was not justified in the absence of at least monthly visits to a physician for required care of exacerbations, or intermittent (at least three per year) courses of systemic corticosteroids. While 26 January 2006 VA C&P examination documented an FEV-1 of 50% predicted and was rated at 60%, panel members put more probative value on the 10 March 2005 VA C&P examination, which was closer to separation and more consistent with the CI's previous FEV-1 value history. Therefore, the panel concluded there a 60% rating was not warranted at the time of separation. After due deliberation, considering all the evidence and mindful of VASRD §4.3 (reasonable doubt), the panel recommends a disability rating of 30% for the asthma at the time of TDRL removal.

BOARD FINDINGS: In the matter of the asthma, the panel recommends a disability rating of 30%, coded 6602 IAW VASRD §4.97, at the time of TDRL removal and permanent disability disposition. 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; and, that the discharge with severance pay be re-characterized to reflect permanent disability retirement, effective the date of medical separation:

CONDITION	VASRD CODE	PERMANENT RATING
Asthma	6602	30%

The following documentary evidence was considered:

- Exhibit A. DD Form 294, dated 20240515, w/atchs
- Exhibit B. Service Treatment Record
- Exhibit C. Department of Veterans Affairs Record

AR20240010235, XXXXXXXXXXX

XXXXXXXXXXXX

Dear XXXXXXXXXXX,

I accept the recommendation of the Department of Defense Physical Disability Board of Review (DoD PDBR) to re-characterize your separation as a permanent disability retirement with the combined disability rating of 30% effective the date of your medical separation for disability with severance pay. Enclosed is a copy of the Board's recommendation and record of proceedings for your information.

The re-characterization of your separation as a permanent disability retirement will result in an adjustment to your pay providing retirement pay from the date of your original medical separation minus the amount of severance pay you were previously paid at separation.

The accepted DoD PDBR recommendation has been forwarded to the Army Physical Disability Agency for required correction of records and then to the U.S. Defense Finance and Accounting Service to make the necessary adjustment to your pay and allowances. These agencies will provide you with official notification by mail as soon as the directed corrections have been made and will provide information on your retirement benefits. Due to the large number of cases in process, please be advised that it may be several months before you receive notification that the corrections are completed and pay adjusted. Inquiry concerning your correction of records should be addressed to the U.S. Army Physical Disability Agency, (AHRC-DO), 1835 Army Boulevard, Building 2000, JBSA, Fort Sam Houston, TX 78234.