



DEPARTMENT OF THE ARMY
United States Army Physical Disability Agency
2900 Crystal Drive, Suite 300
Arlington, Virginia 22202-3557

AHRC-D

05 May 2016

MEMORANDUM FOR Presidents, U.S. Army Physical Evaluation Boards

SUBJECT: Physical Evaluation Board (PEB) Procedural Guidance Memorandum #3: Relationship between Medical Evaluation Board (MEB); Veterans Affairs Disability Rating Activity Site (D-RAS); and PEB Activities in the Integrated Disability Evaluation System (IDES)

1. Supersession: Physical Evaluation Board (PEB) Procedural Guidance Memorandum #3: Relationship between Medical Evaluation Board (MEB), Veterans Affairs Disability Rating Activity Site (D-RAS), and PEB Activities in the Integrated Disability Evaluation System (IDES), dated 19 December 2014.

2. The IDES Narrative Summary (NARSUM) format is the standard for preparing a MEB NARSUM. With reference to the IDES NARSUM format, the MEB examiner will list each of the Soldier's diagnoses; distinguish those conditions which fail or meet retention standards; and include a discussion explaining the basis for these findings. The MEB examiner will consider all diagnoses, including additional diagnoses that come to light as a result of Veterans Affairs (VA) examinations. In considering whether a condition fails or meets retention standards, the MEB will consider the full array of reasons which may form the basis of this determination. This includes consideration of the Army Regulation (AR) 40-501, para 3-41e (1), (2), and (3) as well as any more specific AR 40-501, Ch. 3 provisions that may apply. The MEB examiner will provide a reason/analysis for why each condition fails or meets retention standards. See IDES NARSUM format sections 4, 7 and 9.

3. Based on the MEB Proceedings, to include the IDES NARSUM, the PEB will make a finding of whether the Soldier is fit or unfit for each MEB diagnosis. Thereafter, the PEB will identify each unfitting diagnosis to the D-RAS. (See DoDI 1332.18, Vol 2, Encl 3, para 2n).

4. In the IDES case, the D-RAS will prepare a rating decision. This rating decision consists of two elements: a narrative for the decision and a code sheet. Except in certain situations, for example, where the Soldier is in troop program unit (TPU) status, the rating decision is "preliminary" or "provisional". The D-RAS will refer to an unfitting diagnosis as a "PEB referred condition". The D-RAS will also distinguish between an unfitting and not unfitting diagnosis as follows: "for Disability Evaluation System purposes" (for example, unfitting) vs. "for purposes of entitlement to Department of Veterans Affairs benefits" (for example, not unfitting). (See DoDI 1332.18, Vol 2, App 11 to Encl 4).

a. With respect to each diagnosis, in the narrative, the D-RAS provides the reasons for the (provisional) findings regarding:

(1) Whether the PEB identified the diagnosis as unfitting, for example, "for Disability Evaluation System purposes"

(2) Whether the D-RAS awarded (VA) service connection

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(3) Any assigned percent rating for the diagnosis

(4) Whether the D-RAS has determined re-evaluation will be required

b. For each of the Soldier's diagnoses, the D-RAS includes on the code sheet a Veterans Affairs Schedule for Rating Disabilities (VASRD) code (assigned by the D-RAS); identifies those diagnoses the D-RAS has (provisionally) determined to be (VA) service connected, for example, subject to VA compensation; and indicates whether the diagnosis is one the PEB identified as unfitting.

c. When the D-RAS mischaracterizes the unfitting vs. not unfitting PEB finding in either location of the rating decision, the PEB will request the D-RAS correct the error(s). It is acceptable to continue processing the case provided the DA Form 199 indicates the current rating decision does not accurately convey the PEB findings. If the rating is a final rating (for example, if the Soldier is in TPU status) the PEB must delay processing, work with the D-RAS and correct the rating decision.

d. It is acceptable for the (D-RAS) rating decision to indicate a rating for a condition the PEB determined to be unfitting but noncompensable. In this situation, the PEB will indicate on the DA Form 199 the basis for the PEB determination that the condition is not compensable.

e. When it is not clear from the rating decision which rating(s) and diagnosis(es) correspond to the diagnoses which the PEB determined unfitting, the PEB will request D-RAS clarification. The PEB will not re-engage the MEB.

f. Where the rating decision indicates the D-RAS recognized the referred condition as one diagnosis, but provided an alternate diagnosis and diagnostic code (DC), the PEB will convey these findings as follows: VA assigned DC, PEB unfitting diagnosis rated as VA diagnosis (VA assigned DC). Example: The PEB finds the Soldier unfit for schizophreniform disorder. The VA provisional rating indicates the D-RAS understood the referred condition as schizophreniform disorder, but provides a diagnostic code and rating for psychotic disorder. The PEB would prepare a DA Form 199 as follows: 9210 Schizophreniform disorder rated as psychotic disorder not otherwise specified (VASRD 9210).

g. The VASRD requires certain co-existing disabilities be evaluated together, for example, 38 CFR 4.96(a). Where a Soldier has two or more such co-existing disabilities and where the PEB finds the Soldier unfit for one or more, but not all, the narrative section of the VA rating decision will generally include a percentage based on (only) those disabilities the PEB found unfitting.

5. Upon receipt of the rating decision, the PEB may find that the Soldier has been diagnosed with a condition that the MEB did not identify – as either meeting or not meeting retention standards. This situation is distinguished from the D-RAS referring to a MEB-identified condition using an alternate diagnosis. Where there is insufficient information to make a finding

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on whether the condition is unfitting (to include consideration of combined effect), the PEB must obtain additional information from the MEB.

6. The PEB is not obligated to review or verify the D-RAS rating (or diagnosis) is accurate. The PEB is free to identify an apparent error by sending a letter to the D-RAS. See enclosure 1 (Sample Letter to D-RAS). The PEB must include a copy of the request in the Soldier's Case file; and c.c. the Soldier's PEBLO and U.S. Army Physical Disability Agency (USAPDA). The PEB will defer processing the Soldier's Case until it hears back from the D-RAS. If the PEB has remaining concerns about the Soldier's rating as a result of the response from the D-RAS, the PEB may request USAPDA quality assurance program to review the case.

7. The point of contact for this memorandum is the undersigned at 703-325-2627 or john.c.waters2.mil@mail.mil.

//original signed//
JAY C. WATERS
COL, AG
Director

CF:
OTSG/IDES SERVICE LINE
OSC

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SAMPLE LETTER TO DRAS

OFFICE SYMBOL (PEB) DATE

MEMORANDUM FOR DRAS

SUBJECT: Request for D-RAS Re-adjudication, RE: Soldier's Name

1. Purpose: The purpose of this memorandum is to request the D-RAS re-adjudicate its November 3, 2009 proposed rating assigning a 20% rating with reference to diagnostic code (DC) 5318, left obturator neuropathy.
2. Contention: This Soldier sustained neurological injuries during the course of back surgery. In addition to an obturator nerve injury, the Soldier sustained injury to the nerve roots that comprise the femoral nerve resulting in 0/5 quadriceps strength. The 5318 rating references the 0/5 quadriceps, but the rating does not include consideration of 0/5 quadriceps. Therefore, in addition to the 5318 rating, the Agency requests the VA consider whether, based on the complete evidence of record, a 40% rating with reference to DC 8526, femoral nerve, shall also be awarded.
3. Supporting Documentation and Discussion:
 - a. Examination confirmed that, as a result of back surgery, the Soldier sustained a neurological injury to the innervation of his quadriceps muscles. Examination revealed left sartorius muscle and quadriceps muscle strength measured at 0/5. 0/5 means no motion possible and examiner is unable to feel any muscle movement. Examination 24 FEB 2010 indicates a 2.5 inch decrease in left thigh circumference when compared to the right. The Soldier relied on a cane and his gait was insecure with marked left obturator muscle weakness.
 - b. The nerve supply to the quadriceps is through the femoral nerve. Nerve roots from second, third and fourth lumbar nerves make up the femoral nerve. The quadriceps muscles function to extend the knee. The obturator muscle functions to help laterally rotate extended thigh and abduct flexed thigh, as well as to steady the femoral head in the acetabulum. The obturator muscle is not within the quadriceps muscle group. See Vulnerability of the Femoral Nerve During Complex Anterior and Posterior Spinal Surgery at: <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC2830684/>.
 - c. The language immediately following 38 CFR 4.124a beginning with: "With the exceptions noted ..." provides that when neurological lesions causes partial loss of use of one or more extremity, the rating is "by comparison with the mild, moderate, severe, or complete paralysis of [the listed] peripheral nerves."
4. Point of contact for this memorandum is X.