

TOM PHILPOTT | DISABILITY REVIEW 'INVITES' GOING TO 75,000 VETS

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On combat patrol several years ago, a U.S. soldier suffered two attacks from improvised explosive devices in a 24-hour-period. The first one rattled him and killed his buddy. The second one blew him out of his vehicle and knocked him unconscious.

The Army would medically separate this soldier with a 10-percent disability rating, even though his medical records showed symptoms of traumatic brain injury and post-traumatic stress disorder.

This case, and many like it, occurred before Congress in 2008 ordered military branches to clean up their disability evaluation systems and end practices that had underrated medical conditions of ill and injured members.

Congress did something else too, to correct past wrongs. It directed the Department of Defense to establish the Physical Disability Review Board (PDRB) with authority to reexamine the files and, if appropriate, raise disability ratings of up to 77,000 veterans — those medically separated with ratings less than 30 percent between Sept. 11, 2001, and Dec. 31, 2009.

A few weeks ago the soldier struck by those two IEDs year ago learned that the PDRB had recommended his disability rating be raised to 70 percent, well above the 30-percent threshold needed to qualify for disability retirement, and applied back to the date of the Army's first rating decision.

"We looked at the same exams," explained PDRB President Michael F. LoGrande in an interview Friday. "He had post-traumatic stress legitimately. All the documentation was there. He had traumatic brain injury. All the documentation was there."

For all the good it can do, a big problem for the PDRB is this: It has been operating since June of 2009, and raising disability ratings on 45 percent of cases reviewed, but only 2700 veterans from an eligibility pool of 77,000 have applied to have their ratings reviewed. LoGrande called the 3.5 percent response rate "shockingly small."

That is about to change, thanks to Sen. Mark Udall (D-Colo.). At his urging the Department of Veterans Affairs, coordinating closely with the PDRB, will begin a phased mailing this month of information packets on the PDRB to every qualified veteran with a current home address on file at VA.

The first batch of letters about the PDRB, including an application form, will be mailed to 15,031 veterans, all of them medically separated in 2001 (post-9/11), 2002 or 2003. The next batch of 20,000 will go out by late April to eligible vets separated in 2004 and 2005. A July mailing of

16,500 will target the years 2006 and 2007. Finally, an October mailing to 13,200 will reach out vets separated in 2008 and 2009.

But eligible veterans don't have to wait for the letter. They can apply now to the PDBR to have their ratings reviewed. All the information they need already is available online at: www.health.mil/pdbr.

No rating can be downgraded but a lot is at stake for those seeking an upgrade. A rating below 30 percent resulted, at most, in a severance payment. A bump to 30 percent or higher changes a veteran's status to disabled "retiree." That means a lifetime annuity, access to military health care for the retiree and dependents, discount shopping on base and more.

They also will get annuity back pay to the date of their original disability evaluation board decision, less an amount that must be recouped equal to the value of severance pay provided at time of discharge.

Advocates for veterans given lowball ratings since 9/11 had pushed for a direct mailing. LoGrande did so too as early as two years ago. Looking back, he said, the PDBR probably wasn't ready the response now ahead.

"We neither had the resources nor the manpower at the time to do it. And frankly, I don't think everyone was ready for us to do that. Let's just put it that way," he said, alluding to resistance from on high to a direct mailing immediately after the PDBR began operating.

Last summer Udall's staff requested a briefing on the PDBR and the response rate from veterans. LoGrande explained that, to date, outreach efforts had focused on state directors of veterans affairs in California, Colorado, Texas, Florida and Georgia where more than half of the pool of eligible vets live. Udall decided that wasn't good enough.

The senator wrote to VA Secretary Eric Shinseki that the population that needed to be told about the PDRB was all veterans "no longer serving." He asked for VA's help in a direct mailing. Shinseki responded in October, asking Allison A. Hickey, his undersecretary for benefits, to meet with LoGrande and begin working out details for a mass mailing.

Udall this week praised the interagency cooperation.

"Now that the VA and the PDBR have combined forces, we are a step closer to ensuring that disability and retirement benefits match the sacrifices this generation of veterans has made for our country," said Udall.

VA's initial idea was a single mass mailing. PDBR sought instead a phased mailing to avoiding swamping the board and frustrating applicants who already wait an average of 13 months for a PDBR decision. That's down from 18 months a year ago.

LoGrande said responses to the first mailing will tell the PDBR how it needs to beef up staff, particularly with more physicians who must be trained on the VA schedule of ratings and schooled on how to apply it to applicant files, many of which contain extensive medical histories.

The PDBR currently has only five full-time physicians and eight contract physicians who have more limited duties involving preparation of files for board decisions. LoGrande knows he'll need more docs just not how many.

PDBR already has a backlog of 461 cases, defined as those taking longer to decide than the deadlines set in current regulations. The board expects to have to rely heavily on the services to provide more active or reserve physicians to be train for PDBR case reviews and decisions.

Of the mass mailing, LoGrande said, it simply is "the right thing to do," regardless of the work ahead or cost to the government. "If that veteran were my son or my daughter, my niece or nephew, or my brother or sister, I would want them to have that opportunity."

Introducing the Physical Disability Board of Review

Veterans who have been medically separated from the U.S. Military between September 11, 2001 and December 31, 2009 now have the opportunity to have their disability ratings reviewed by the Physical Disability Board of Review (PDBR) to ensure fairness and accuracy.

What We Do

The Physical Disability Board of Review, or PDBR, was legislated by Congress and implemented by the Department of Defense [http://www.health.mil/About MHS/Organizations/MHS Offices and Programs/PDBR.aspx](http://www.health.mil/About_MHS/Organizations/MHS_Offices_and_Programs/PDBR.aspx) - # to ensure the accuracy and fairness of combined disability ratings of 20% or less assigned to service members who were discharged between September 11, 2001 and December 31, 2009. The PDBR uses medical information provided by the Department of Veterans Affairs and the military department. Once a review is complete, the PDBR forwards a recommendation to the secretary of the respective branch of the armed services. It is up to the individual service branch to make the final determination on whether to change the original disability determination.

(1) Congress passed the Dignified Treatment of Wounded Warriors Act in January 2008 which created the PDBR. DoD implemented the board in June of 2008 by issuing DoDI 6040.44: Lead Component for the PDBR.

PDBR Outcome

You may be wondering, "What happens if I'm successful in the process of getting my case reviewed by the PDBR and finalized by my military department?"

Impact on Pay and Benefits if You Are Successful with Your PDBR Application:

In almost half of the cases reviewed by the PDBR (as of December 2011), the applicant's Military Service Department has found the applicant eligible for a disability retirement and has awarded this to the applicant. What does this mean for you and your family if your application to the PDBR is successful?

1. You will receive (retroactively to the day of your original disability separation) monthly disability retirement pay from your military service. NOTE: By law, all previously awarded disability severance pay must be offset/recouped from these new retirement payments until you can actually begin receiving your entire disability retired pay. Please see the Retired and Annuity Pay Section at <http://dfas.mil/retiredmilitary#> and Wounded Warrior Section at <http://www.dfas.mil/militarymembers.html#> or contact DFAS at 1800-321-1080.
2. You are now eligible for DoD's TRICARE health care coverage (retroactively to the day of your original disability separation). Coverage is extended to your eligible dependents as well. You may request to have TRICARE retroactively reimburse your previous medical expenditures.
3. You are eligible to buy the Survivor's Benefit Plan insurance for your dependents (you would be responsible for retroactively paying insurance premiums to bring your coverage up to date).
4. You (and your eligible dependants) will have all rights and privileges of a retired Veteran from your armed service (e.g. commissary, exchange, space available recreation and travel, other benefits available via State and private sector organizations).

History

The PDBR was introduced in 2009. There are significant differences between the PDBR and the Board for Correction of Military (or Naval) Record (BCMR/BCNR) review.

Contact Us

If you have further questions about the PDBR, contact: PDBRPA@afncr.af.mil

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Please keep in mind that this office cannot discuss the merits of your application. You may wish to contact your local veterans' service organization for advice or guidance

