RECORD OF PROCEEDINGS

AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF: DOCKET NUMBER: BC-2015-05267

COUNSEL: NONE

HEARING DESIRED: NO

APPLICANT REQUESTS THAT:

He receive medical continuation (MEDCON) orders covering the period 30 Sep 15 through 15 Dec 15.

APPLICANT CONTENDS THAT:

He should have received MEDCON orders during this period. While deployed under Title 10 mobilization orders during the period 12 Nov 14 through 30 Aug 15, he experienced a worsening of his medical condition. During his post-deployment assessment, he was placed in Pre-MEDCON status beginning 31 Aug 15 for 30 days for medical evaluation and further treatment. He was evaluated on 21 Sep 15, which resulted in surgery, and he requested follow-on MEDCON orders. However, due to an administrative process beyond his control, his Line of Duty (LOD) determination was not completed before his Pre-MEDCON orders expired, and his request for follow-on MEDCON orders was denied. On 16 Mar 16, he received the results of his LOD determination, and his medical condition was determined to be non-service aggravated.

The applicant’s complete submission, with attachments, is at Exhibit A.

STATEMENT OF FACTS:

The applicant served in the Air Force Reserve in the grade of Technical Sergeant (TSgt) during the time of the matter under review.

According to the documentation submitted by the applicant:

a.  On 2 Sep 15, the applicant was issued MEDCON orders covering the period 31 Aug 15 through 29 Sep 15 for the purpose of medical appointments and evaluationunder Title 10 USC § 12301(h)**.**

b.  On 19 Sep 15, the applicant was evaluated as part of his post-deployment assessment, and was diagnosed with bilateral bunions.

The remaining relevant facts pertaining to this application are contained in the memorandum prepared by the Air Force office of primary responsibility (OPR), which is attached at Exhibit C.

AIR FORCE EVALUATION:

AFRC/SGO recommends denial indicating there is no evidence of an error or an injustice. The applicant has a documented medical history of bilateral bunions. During a 24 Aug 15 medical visit after his deployment to Qatar, he stated his bunions had been present for years, however, have been increasingly symptomatic over the past 8 months. The applicant was approved for Pre-MEDCON orders from 31 Aug 15 to 29 Sep 15. The servicing reserve medical unit (RMU) submitted a full MEDCON application to the Air Reserve Component Case Management Division (ARC-CMD) on 23 Sept 15. ARC-CMD reviewed the package and determined he did not meet minimum criteria. The applicant underwent left foot bunion correction on 2 Oct 15 followed by a right foot bunion correction on 18 Jan 16. An LOD was finalized on 16 Mar 16 with a finding of Existed Prior to Service (EPTS-LOD N/A). The applicant appealed this determination in Mar 16, however, it was not submitted by the Wing LOD Program Manager to the appellate authority until 10 Jan 17 and is currently pending adjudication.

In accordance with AFI 36-2910, *Line of Duty (Misconduct) Determination*, paragraph 5.5.3, any future MEDCON orders following the incurred break in service will require a finalized LOD with a positive finding of ILOD. The applicant does not currently have an approved LOD for his bilateral bunions. If the finding is overturned to in-the-line-of-duty, the applicant may request compensation for lost time and income.

A complete copy of the AFRC/SGO evaluation is at Exhibit C.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

A copy of the Air Force evaluation was forwarded to the applicant on 21 Apr 17 for review and comment within 30 days (Exhibit D). As of this date, no response has been received by this office.

THE BOARD CONCLUDES THAT:

1.  The applicant has exhausted all remedies provided by existing law or regulations.

2.  The application was timely filed.

3.  Insufficient relevant evidence has been presented to demonstrate the existence of an error or injustice. We took notice of the applicant’s complete submission in judging the merits of the case; however, we agree with the opinion and recommendation of AFRC/SGO and adopt its rationale as the basis for our conclusion the applicant has not been the victim of an error of injustice. As AFRC/SGO noted the applicant does not currently have an approved LOD for his bilateral bunions. If the applicant receives an LOD-Yes for his bunions, he can apply to the Board for reconsideration at that time. Therefore, in the absence of evidence to the contrary, we find no basis to recommend granting the requested relief.

THE BOARD DETERMINES THAT:

The applicant be notified the evidence presented did not demonstrate the existence of material error or injustice; the application was denied without a personal appearance; and the application will only be reconsidered upon the submission of newly discovered relevant evidence not considered with this application.

The following members of the Board considered AFBCMR Docket Number BC-2015-05267 in Executive Session on 25 May 17 under the provisions of AFI 36-2603:

Panel Chair

Member

Member

The following documentary evidence was considered:

Exhibit A.  DD Form 149, dated 19 Nov 15, w/atchs.

Exhibit B.  Applicant's Master Personnel Records.

Exhibit C.  Memorandum, AFRC/SGO, dated 6 Feb 17.

Exhibit D.  Letter, SAF/MRBR, dated 21 Apr 17.

Pursuant to paragraph 1 of AFI 36-2603 (Title 32 Code of Federal Regulations, Part 865.1), it is certified that a quorum was present at the Board's review and deliberations, and the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.