



**DEPARTMENT OF THE NAVY**  
BOARD FOR CORRECTION OF NAVAL RECORDS  
701 S. COURTHOUSE ROAD, SUITE 1001  
ARLINGTON, VA 22204-2490

[REDACTED]  
Docket No: 4616-21  
Ref: Signature Date

From: Chairman, Board for Correction of Naval Records  
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF [REDACTED] USNR, XXX-XX-[REDACTED]

Ref: (a) Title 10 U.S.C. 1552

Encl: (1) DD Form 149 w/attachments  
(2) Advisory Opinion of 5 Jan 22

1. Pursuant to the provisions of the reference, Subject, hereinafter referred to as Petitioner, filed enclosure (1) with the Board for Correction of Naval Records (Board), requesting reconsideration of the denial of his request for Line of Duty Healthcare (LOD HC) dated 5 December 2019.

2. The Board, consisting of [REDACTED], [REDACTED], and [REDACTED], reviewed Petitioner's allegations of error and injustice on 7 April 2022 and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, relevant portions of naval records, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. Petitioner enlisted in the U.S. Navy Reserve in February 2012. He served on active duty from 22 November 2013 to 24 November 2014. Shortly after his demobilization, in March 2015, the Department of Veterans Affairs (VA) referred him to a Gastroenterologist for a colon cancer screening (as a result of a diagnosis of [REDACTED]).

c. Thereafter, as described in detail in the enclosed advisory opinion (AO), a series of errors occurred. These errors included the transmittal of incorrect documentation by his command and other entities, as well as long delays in submissions, which compounded to impact his LOD HC decision, the appeal, which ultimately deprived Petitioner of a timely adjudication of potential benefits.

d. To assist it in reviewing this complex set of facts and circumstances relating to a medical issue, the Board obtained the enclosure (2) AO<sup>1</sup>.

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<sup>1</sup> As a result of the full review and corrected information, we acknowledge that a connection to a qualifying duty period likely existed in 2015 and had the LOD-HC package been submitted with the correct information, the LOD-HC request would have likely been approved. We therefore recommend referral to the PEB [Physical Evaluation Board] for evaluation as to whether [Petitioner] met the requirements for assignment to TDRL in the 2015/2016 timeframe, and if so, a final determination of his medical status.

If the board does not find referral to the PEB appropriate, as an alternative, we recommend a review of points available to credit [Petitioner] with enough qualifying years to apply for a non-regular retirement (with 15 years) based on the BUMED determination that he was NPQ/RNR.

CONCLUSION

Upon review and consideration of all the evidence of record, as well as the enclosure (2) AO, the Board found the existence of an error with respect to the Petitioner's LOD HC. The Board substantially concurred with the findings of the AO. Therefore, the Board concluded that the Petitioner should be placed on the Temporary Disabled Retired List (TDRL) as of 1 March 2015, the date of his colon cancer screening by the VA, which is a date that would have rendered his application for LOD HC timely, and that he be referred to the Physical Evaluation Board (PEB) for a final determination of his medical status.

RECOMMENDATION

In view of the above, the Board directs the following corrective action:

Petitioner's naval record be corrected by placing him on the TDRL effective 1 March 2015.

Petitioner will be ordered to undergo a periodic physical examination and have the Physical Evaluation Board make a final determination of his disability status in accordance with Title 10, U.S. Code, Section 1210. All due process rights associated with the Disability Evaluation System will be afforded to the Petitioner as part of the Physical Evaluation Board review.

That no further changes be made to Petitioner's record.

A copy of this report of proceedings shall be filed in Petitioner's naval record.

4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulation, Section 723.6(e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of the reference, has been approved by the Board on behalf of the Secretary of the Navy.

5/3/2022

[REDACTED]

Deputy Director

Signed by: [REDACTED]