



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

[REDACTED]
Docket No. 3885-22
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF [REDACTED], USN,
[REDACTED]

Ref: (a) Title 10 U.S.C. § 1552
(b) NAVADMIN 101/10 of 19 Mar 10

Encl: (1) DD Form 149 w/attachments
(2) Subject's naval record

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed enclosure (1) with the Board for Correction of Naval Records (Board), requesting that his naval record be corrected to show Petitioner received Basic Allowance for Housing (BAH) based on previous Permanent Duty Station (PDS).

2. The Board, consisting of [REDACTED], [REDACTED], and [REDACTED] reviewed Petitioner's allegations of error and injustice on 16 June 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 Petitioner's naval record, 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. In accordance with reference (b), this NAVADMIN clarifies eligibility and procedures for execution of a close proximity move. The following policy is in accordance with Title 37 U.S. Code Section 403 and Joint Federal Travel Regulations 1 November 2008 and supersedes any guidance on BAH as it pertains to close proximity moves listed in OPNAVINST 7220.12 and NAVADMIN 026/09.

Service members who have not executed their orders are eligible to remove the household goods (HHG) funding from those orders in order to fall under the provisions of a close proximity move and may be eligible to receive BAH based on the previous permanent duty station (PDS).

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Service members with or without dependents who are reassigned within the continental United States, maintain an established residence, and still commute daily to their new PDS or homeport, may qualify for BAH based on their previous PDS under the provisions of a close proximity move.

To qualify for BAH based on the previous PDS, the following provisions must be met: funding for a HHG move must not be authorized, the member must maintain a continuous residence. The member must have established a continuous residence at the previous PDS prior to receiving his/her new orders, the member must commute daily to the new PDS from the same residence. Finally, to receive BAH based on the old PDS, the member must complete the below steps prior to the execution of orders: request authorization from the gaining commanding officer to receive BAH based on his/her previous duty station. Gaining commanding officers should ensure that member is maintaining a continuous residence and that the commuting distance from that continuous residence is reasonable for the geographic location of the assignment. If approved by the gaining commanding officer, the member must send the approval letter to his/her detailee in order to get the HHG funding removed from his/her orders. Once HHG funding is removed from the orders and the orders are re-issued, the member must take the approval letter and the orders to Personnel Support Detachment (PSD) upon check in to the gaining command to have BAH based on the previous duty station continued.

c. On 5 May 2021, Petitioner was issued official change duty orders (BUPERS order: 1251) while stationed in [REDACTED] with an effective date of departure of June 2021. Petitioner's intermediate activity was [REDACTED] for temporary duty with an effective date of arrival of 10 July 2021. Petitioner's intermediate activity was [REDACTED] for temporary duty under instruction with an effective date of arrival of 26 July 2021. Petitioner's ultimate activity was [REDACTED] for duty with an effective date of arrival of 19 August 2021.

d. On 5 June 2021, Petitioner notified Commander, Navy Personnel Command (PERS-409) via Commanding Officer, [REDACTED] that per Title 37 U.S.C. Chapter 7 Section 403, DoD FMR Volume 7A, and NAVADMIN 101/10. Petitioner requested to maintain Basic Allowance for Housing (BAH) at his previous Permanent Duty Station (PDS). Upon reporting to the new command, Petitioner will have maintained a continuous residence in [REDACTED] and intended to continue residing there for the duration of his tour. The commuting distance from Petitioner's residence to [REDACTED] is 53 miles and takes approximately 1.1 Hours one way.

Petitioner fully understood that with the approval of his request, he will have the funding for a household goods (HHG) move removed from his orders and the authorization to move his family at government expense revoked. Additionally, Petitioner realized that if he moves his residence at his own expense, he will forfeit the right to receive BAH based on his previous PDS and his BAH rate will be reverted to his current duty location.

e. On 15 June 2021, First Endorsement on Petitioner's letter of 5 June 2021, Commanding Officer, [REDACTED] to Commander, Navy Personnel Command (PERS-409). Forwarded, Petitioner's request was approved. Request removal of household goods move funding and authorization to move dependents in Permanent Change of Station Orders.

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f. On 30 June 2021, Petitioner transferred from [REDACTED].

g. On 9 July 2021, Petitioner was issued official modification to change duty orders (BUPERS order: 1251) while stationed in [REDACTED] with an effective date of departure of July 2021. Petitioner's intermediate activity was [REDACTED] for temporary duty with an effective date of arrival of 10 July 2021. Petitioner's intermediate activity was [REDACTED] for temporary duty under instruction with an effective date of arrival of 26 July 2021. Petitioner's ultimate activity was [REDACTED] for duty with an effective date of arrival of 17 September 2021.

h. On 10 July 2021, Petitioner arrived to [REDACTED] for temporary duty.

i. On 13 August 2021, Petitioner transferred,

j. On 16 September 2021, Petitioner's BAH at the with-dependents rate for [REDACTED] stopped.

k. On 17 September 2021, Petitioner arrived to [REDACTED] for temporary duty. Furthermore, Petitioner's BAH at the with-dependents rate for [REDACTED] started.

CONCLUSION

Upon review and consideration of all the evidence of record, and especially in light of the contents of enclosure (2) and reference (b), the Board finds the existence of an injustice warranting the following corrective action. The Board concluded that Petitioner submitted a timely request to receive BAH at the with dependents rate based on the old PDS, which was approved by cognizant authority; however, due to no fault of his own, HHG funding was not removed prior to the execution of his orders, and Petitioner's BAH was started based on his new PDS.

RECOMMENDATION

That Petitioner's naval record be corrected, where appropriate, to show that:

Petitioner's request for a close proximity move was approved by cognizant authority prior to executing orders. Furthermore, prior to execution, Petitioner's orders were modified to remove funding for a HHG move.

Petitioner was authorized BAH at the with-dependent rate for [REDACTED] from 17 September 2021 to present. Note: if Petitioner moved from his residence during this period, he will no longer be authorized BAH at the old PDS.

Note: Defense Finance & Accounting Service (DFAS) will complete an audit of Petitioner's records to determine if Petitioner is due any back pay and allowances.

A copy of this Report of Proceedings will be filed in Petitioner's naval record.

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[REDACTED]

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 Regulations, 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.

6/27/2022

[REDACTED]