



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

[REDACTED]  
Docket No. 436-23  
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD ICO [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) for [REDACTED] vice [REDACTED] [REDACTED]

2. The Board, consisting of [REDACTED], [REDACTED], and [REDACTED] reviewed Petitioner's allegations of error and injustice on 2 May 2023 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, to include reference (b).<sup>1</sup>

3. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, finds as follows:

---

<sup>1</sup> Reference (b), 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 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 PDS. 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 CO to receive BAH based on his/her previous duty station. Gaining COs 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 CO, the member must send the approval letter to his/her detailer 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 upon check in to the gaining command to have BAH based on the previous duty station continued. Back-To-Back close proximity moves. A member who qualifies (as stipulated above) and executes Back-To-Back close proximity moves that result in a return to a PDS in the original military housing area is generally not authorized to maintain BAH at the previous PDS rate. In this case, the member may experience a reduction in BAH, since the member's housing decision was made based on the last PCS move that authorized reassignment to that geographic area.

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

a. On 17 September 2020, Petitioner signed a Record of Emergency Data (DD Form 93) listing his spouse residing at [REDACTED], [REDACTED].

b. On 6 June 2022, Petitioner was issued official change duty orders (BUPERS order: 1572) while stationed at [REDACTED], [REDACTED], [REDACTED] with an effective date of departure of December 2022. Petitioner's ultimate activity was [REDACTED], [REDACTED], [REDACTED] for duty with an effective date of arrival of January 2023, with a Projected Rotation Date of July 2025. Furthermore, members who receive Permanent Change of Station (PCS) orders when their old and new permanent duty stations (PDS) are within close proximity to each other (based on a reasonable commute determined by the gaining CO) may be eligible to receive a close proximity waiver and receive BAH based on their old PDS location. See NAVADMIN 101/10 for waiver eligibility requirements and procedures.

c. On 1 August 2022, Petitioner signed a Residential Lease Agreement with an effective date of 1 September 2022 located in [REDACTED], [REDACTED].

d. On 2 December 2022, Petitioner transferred from [REDACTED], and arrived to [REDACTED] on 5 December 2022 for duty.

e. On 19 December 2022, Petitioner's BAH at the with-dependent rate for [REDACTED], [REDACTED], stopped effective 4 December 2022. Furthermore, Petitioner was authorized BAH at the with-dependent rate for [REDACTED], [REDACTED], effective 5 December 2022 started.

f. On 10 April 2023, Commanding Officer (CO), 1st Combat Engineer Battalion notified the Board for Correction of Naval Records (BCNR) that per Title 37 U.S.C. section 403, DoD 7000.14-R FMR Volume 7A, OPNAVINST 7220.12, and NAVADMIN 101/10, he supports the request to the BCNR for Petitioner to receive BAH based on their previous PDS retroactive to their report date to [REDACTED]  
[REDACTED]

Per references Title 37 U.S.C. section 403, DoD 7000.14-R FMR Volume 7A, OPNAVINST 7220.12, and NAVADMIN 101/10, Petitioner is eligible to receive BAH at the location of the previous duty station because he did not execute a household goods (HHG) movement in connection with his PCS orders and commutes a reasonable distance daily between his previously established residence and current duty station; i.e. a "close proximity move." Due to an unused line of accounting (LOA) and the drafter of the orders to indicate the close proximity move on the petitioner's orders, the petitioner would have been able to retain their prior BAH.

All administrative remedies have been exhausted to correct this administrative [REDACTED] coordinated with OPNAV N130 in order to identify and attempted to correct the BAH discrepancy. In all cases it was determined that an unused LOA was included in Petitioner's orders, therefore BAH could not be authorized at his previous PDS. As the gaining command's CO, he fully approved and supported authorization of BAH at the previous PDS per the DoD FMR.

It has been verified that Petitioner listed above did not execute a HHG move, maintains a continuous residence in the vicinity of their previous PDS prior to issuance of this PCS orders, and commutes a reasonable distance from their residence to their current PDS. The inability to receive BAH at Petitioner's previous PDS rate causes an unjust financial strain on Petitioner and his family and will accumulate throughout their tour.

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

## CONCLUSION

Upon review and consideration of all the evidence of record, and especially in light of the contents of reference (b) and enclosure (2), the Board finds the existence of an injustice warranting the following corrective action. The Board concluded that Petitioner established a residence with his family in [REDACTED], [REDACTED] and was in receipt of BAH at the with-dependents rate prior to the issuance of BUPERS order: 1572 to [REDACTED], [REDACTED]. Petitioner did not follow the procedures outlined within reference (b) to request to remove the line of funding for an HHG move and to continue to receive BAH at the with-dependents rate based on the old PDS. However, Petitioner's gaining command favorably endorsed his request and verified that Petitioner maintained his residence at the old PDS, commutes a reasonable distance from the same residence, and that Petitioner never moved his HHG or dependents; therefore, the Board determined that Petitioner is eligible to continue to receive BAH at the with-dependents rate for [REDACTED], [REDACTED].

## 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 (BUPERS order: 1572).

Petitioner was authorized BAH at the with-dependent rate for "[REDACTED], [REDACTED]" vice "[REDACTED], [REDACTED]" from 5 December 2022 to present. Note: If Petitioner moves from his residence, he will no longer be authorized BAH at the old PDS.

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

A copy of this Report of Proceedings will 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 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.

5/8/2023

