



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

[REDACTED]
Docket No. 1943-23
Ref: Signature Date

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

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

Ref: (a) Title 10 U.S.C. § 1552
(b) DoD 7000.14-R FMR Volume 7A, Chapter 26

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 her naval record be corrected to show Petitioner received appropriate pay and allowances due to the birth of her child from 11 June 2020 until 30 November 2020.

2. The Board, consisting of [REDACTED], and [REDACTED] obley reviewed Petitioner's allegations of error and injustice on 20 April 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.

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:

a. On 4 March 2016, Petitioner married a Navy active duty service member.

b. On 18 November 2019, Petitioner transferred from [REDACTED] and arrived to [REDACTED] on 18 November 2019 for duty.

c. On [REDACTED], Petitioner's child was born in [REDACTED].

d. On 3 August 2020, Petitioner was issued official separation orders (BUPERS order: 2160) while stationed in [REDACTED] with an effective date of departure of November 2020. Petitioner's place elected for travel was [REDACTED] with an effective date of separation of 30 November 2020.

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e. Petitioner was released from active duty and transferred to the Naval Reserve with an Honorable character of service and was issued a Certificate of Release or Discharge from Active Duty (DD Form 214) for the period of 1 December 2014 to 30 November 2020 upon completion of required active service.

f. On 9 December 2020, Petitioner's Overseas Cost-of-Living Allowance (OCOLA) with 0 dependent for [REDACTED] effective 1 November 2020 stopped.

g. On 21 December 2020, Petitioner's Basic Allowance for Housing (BAH) at the without dependents rate for [REDACTED] effective 30 November 2020 stopped.

h. On 9 December 2020, Defense Joint Military Pay System/Master Military Pay Account reflects Petitioner was charged terminal leave from 10 October 2020 to 30 November 2020 (52) days.

i. On 16 September 2021, Petitioner's spouse's BAH at the with dependents rate for [REDACTED] effective 18 December 2020 started.

j. On 31 August 2022, Defense Finance and Accounting Service (DFAS) notified Petitioner that pursuant to 31 U.S.C. 3716, her debt(s) has been referred to the DFAS Debt and Claims Management Operations for collection. Please refer to the enclosed Account Statement for information concerning the debt(s) along with payment instructions.

Debt is due to overpayment for cost of living allowance from 2 November 2020 to 30 November 2020, which was not considered or was not on your record when your final pay was computed.

CONCLUSION

Upon review and consideration of all the evidence of record, and especially in light of the contents of reference (b)¹ and enclosure (2), the Board finds the existence of an injustice warranting the following corrective action. The Board concluded Petitioner's child was born on 11 June 2020 and Petitioner was released from active duty on 30 November 2020; however, Petitioner never received BAH at the with dependents rate or OCOLA with 1 dependent for that period. Furthermore, Petitioner's spouse was not in receipt of BAH at the with dependents rate for that period. Therefore, the Board determined that Petitioner is entitled to BAH at the with dependents rate from 11 June 2020 until 30 November 2020. Furthermore, Petitioner was entitled to OCOLA with 1 dependent from 11 June 2020 until 1 November 2020.

¹ In accordance with reference (b), ordinarily a housing allowance is based on the Service member's Permanent Duty Station (PDS), or the home port for a Service member assigned to a ship or afloat unit. When a Service member acquires a dependent, for example, through marriage, birth, or adoption, a with-dependent housing allowance is authorized as of the date the dependent is acquired. When a Service member is assigned at a PDS OCONUS and the dependent does not reside at or near the PDS OCONUS, the housing allowance is based on the dependent's location. If the dependent does reside at or near the PDS OCONUS, the housing allowance is based on the PDS OCONUS. When two Service members have a dependent, the Service members must choose which one will receive BAH or Overseas Housing Allowance at the with dependent rate.

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RECOMMENDATION

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

Petitioner was authorized BAH at the "with dependents" vice "without dependents" rate for [REDACTED], from 11 June 2020 to 30 November 2020.

Petitioner was authorized Outside the Continental United States (OCONUS) COLA with "1" dependent vice "0" dependent for [REDACTED] from 11 June 2020 to 1 November 2020.

Note: DFAS 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.

5/1/2023

[REDACTED]

Deputy Director

[REDACTED]