



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

██████████
Docket No. 6153-23
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD ██████████, USN,
██████████

Ref: (a) Title 10 U.S.C. § 1552
(b) DoD 7000-14R 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 his naval record be corrected to show Petitioner received Basic Allowance for Housing (BAH) at with dependents rate from the birth of his dependent child on 9 May 2021 through July 2022.

2. The Board, consisting of ██████████, and ██████████ reviewed Petitioner's allegations of error and injustice on 2 November 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 23 February 2021, Master Military Pay Account (MMPA) shows Petitioner began receiving BAH at the without dependents rate for ██████████.

b. On 5 April 2021, ██████████ issued Petitioner and his future spouse, ██████████, active duty Navy, a Mortgage Activity Statement for the property purchased located at ██████████ with a payment due date on 1 May 2021. Amount due was \$1,631.34

c. On ██████████, Petitioner's first child was born ██████████.

d. On 3 January 2022, Petitioner transferred from ██████████, and arrived to ██████████ on 4 January 2022 for temporary duty.

e. On 1 April 2022, Petitioner signed a Record of Emergency Data (DD Form 93) listing his child (██████████) residing at ██████████.

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[REDACTED]

f. On 1 April 2022, Petitioner signed a Dependency Application (NAVPERS 1070/602) listing his child ([REDACTED]) residing at [REDACTED].

g. On 16 April 2022, Petitioner and [REDACTED] were married.

h. On 11 May 2022, MMPA shows Petitioner's spouse's BAH at the without dependents rate for [REDACTED] stopped.

i. Petitioner's spouse was released from active duty and transferred to the Navy 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 12 September 2017 to 11 May 2022 upon completion of required active service.

j. On 23 May 2022, Petitioner transferred from [REDACTED], and arrived to [REDACTED] on 23 June 2022 for duty.

k. On 22 June 2022, MMPA shows Petitioner's BAH at the without dependents rate for [REDACTED] stopped.

l. On 23 June 2022, MMPA shows Petitioner's BAH at the with dependents rate for [REDACTED] started.

m. On 11 July 2022, Petitioner signed a Record of Emergency Data (DD Form 93) listing his Spouse ([REDACTED]) and child ([REDACTED]) residing at [REDACTED].

n. On 11 July 2022, Petitioner signed a Dependency Application (NAVPERS 1070/602) listing his Spouse ([REDACTED]) and child ([REDACTED]) residing at [REDACTED].

o. On [REDACTED], Petitioner's second child was born ([REDACTED]).

p. On 7 April 2023, Petitioner signed a Record of Emergency Data (DD Form 93) listing his Spouse ([REDACTED]) and both children ([REDACTED]) residing at [REDACTED].

q. On 7 April 2023, Petitioner signed a Dependency Application (NAVPERS 1070/602) listing his Spouse ([REDACTED]) and both children ([REDACTED]) residing at [REDACTED].

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

¹ Reference (b), a Service member who claims a housing allowance for an adopted child, stepchild, or a child born out of wedlock must provide proof of parentage as follows: For a child born out of wedlock, a birth certificate with the Service member's name cited is required. If the Service member's name is not stated on the birth certificate or on a court order, obtain a signed affidavit of parentage (signed and sworn by a notary) from the Service member. If the child is not in the custody of the Service member parent, the case is treated as specified in the rules for BAH-Differential (BAH-Diff). A Service member may claim a dependent child, adopted child, stepchild, or out of wedlock child, for housing allowance purposes. The Service member is authorized a housing allowance if the Service member contributes to the dependent's support and that support is at least equal to the applicable BAH-Diff. This includes a Service member authorized BAH-Diff and a Service member assigned to single-type Government quarters when the child is in the physical custody of another person. One Service Member Enters a Non-Pay Status.

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[REDACTED]

following corrective action. The Board concluded that Petitioner and [REDACTED] purchased a home together in April 2021. Petitioner's child was born out of wedlock on [REDACTED] and Petitioner is listed as the child's father on the birth certificate. On 1 April 2022, Petitioner signed a NAVPERS 1070/602 listing his child ([REDACTED]) residing at [REDACTED]. On 16 April 2022, Petitioner and [REDACTED] were married. Although Petitioner did not sign the NAVPERS 1070/602 for nearly 11 months after his child's birth, the Board determined that because neither Petitioner nor his spouse received a housing allowance on behalf of their child and because they were residing together, Petitioner is entitled to receive BAH at the with dependents rate from 9 May 2021 until 22 June 2022. Petitioner began receiving BAH at the with dependents rate effective 23 June 2022.

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 9 May 2021 to 22 June 2022.

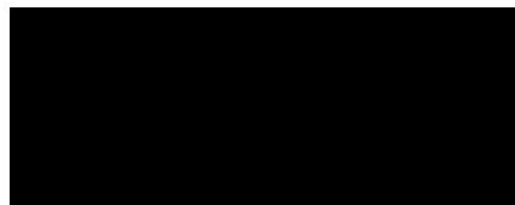
Note: Defense Finance & Accounting Service (DFAS) will complete an audit of Petitioner's records to determine if Petitioner is due any back pay.

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.

11/14/2023



When one Service member enters a non-pay status, the other Service member may claim the Service member not entitled to pay and allowances as a dependent and be authorized to draw BAH or Overseas Housing Allowance at the with-dependent rate for the duration of the non-pay status. 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. If they cannot agree, then the senior Service member receives the with-dependent rate.