



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

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Docket No. 7092-23
Ref: Signature Date

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Dear █,

This is in reference to your application for correction of your naval record pursuant to Section 1552 of Title 10, United States Code. After careful and conscientious consideration of relevant portions of your naval record and your application, the Board for Correction of Naval Records (Board) found the evidence submitted insufficient to establish the existence of probable material error or injustice. Consequently, your application has been denied.

A three-member panel of the Board, sitting in executive session, considered your application on 19 September 2023. The names and votes of the members of the panel will be furnished upon request. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, relevant portions of your naval record and applicable statutes, regulations, and policies.

In accordance with NAVADMIN 101/10 published on 19 March 2010, the following policy is in accordance with Title 37 U.S.C section 403 and Joint Federal Travel Regulations 1 November 2008, and supersedes any guidance on Basic Allowance for Housing (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). 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 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. In the request for this PDS-based allowance, the Commanding Officer of the member's gaining command must verify that the commuting distance is "reasonable" or normal for the geographic location of the command.

This policy does not apply to members who are receiving BAH based on their dependents' location at the previous PDS and subsequently receive new orders in the vicinity of their

dependents' residence. Allowances may only be based on the previous PDS, not on the location in which the dependents are residing.

In accordance with OPNAVINST 1754.2E published on 8 July 2016, Exceptional Family Member Program (EFMP), Category 5 meets the criteria to homestead. The Family member's needs are highly specialized complex, or severe, requiring continuity of care.

On 10 January 2020, Deputy Chief of Naval Operations (Manpower, Personnel, Training, and Education) (N1) notified Commander, Navy Personnel Command that he has designated "continuity of care for dependents enrolled in the [EFMP]" who are assigned EFMP Category-5 as a reason for which Basic Allowance for Housing/Overseas Housing Allowance (BAH/OHA) based on dependent location may be authorized.

BAH/OHA based on dependent location may be paid in lieu of either BAH/OHA for the new PDS for members who leave dependents in the vicinity of the old PDS or old designated place authorized during member's previous assignment, when there is a dependent family member enrolled as an EFMP Category-5 and meets the criteria to homestead based on the most recent medical screening by the Bureau of Medicine and Surgery EFMP Central Screening Committee. Members must have a current EFMP enrollment required by Joint Travel regulations and OPNAV 1754.2E.

The authority to approve BAH/OHA based on dependent location to allow for continuity of care for dependents who meet the criteria to homestead is delegated to Commander, Navy Personnel Command. The authority may not be further delegated below the Distribution Management and Procedures Branch (PERS-451H).

On 19 April 2021, you were issued official change duty orders (BUPERS order: 1091) while stationed in █ with an effective date of departure of October 2021. Your intermediate activity (01) was █ for duty with an effective date of arrival of 10 October 2021. Your ultimate activity was █ for duty with an effective date of arrival of 30 January 2022, with a projected rotation date (PRD) of January 2023. On 7 October 2021, you transferred from █ and arrived to █ on 10 October 2021 for temporary duty. On 10 December 2021, you transferred from █, and arrived to █ on 19 January 2022 for duty.

On 19 January 2022, you signed a Dependency Application (NAVPERS 1070/602) listing your dependents were residing at █. Furthermore, it was certified on 26 January 2022. On 27 January 2022, BAH at the with-dependent rate for █ stopped effective 18 January 2022. Furthermore, BAH at the with-dependent rate for █ started effective 19 January 2022.

On 6 June 2022, you were issued official change duty orders (BUPERS order: 1572) while stationed in █, with an effective date of departure of January 2023. Your ultimate activity was █ for duty with an effective date of arrival of 5 March 2023, with a PRD of May 2026.

On 30 September 2022, Exceptional Family Member Program Team notified you that per OPNAVINST 1754 Series, A. G. E. has been enrolled in the Exceptional Family Member Program, Category 5.

On 3 January 2023, you transferred from ██████████, and arrived to ██████████ on 23 January 2023 for duty.

On 12 January 2023, Commanding Officer, ██████████ notified Commander, Navy Personnel Command (PERS-451H) that Per OPNAVINST 7220.12, DCNO memo dated 10 January 2020, and ██████████ letter of 27 October 22, you were authorized to receive BAH at previously approved location of ██████████. Please remove the funding for a HHG move from your orders and re-issue those orders, if applicable, as you are returning from overseas orders.

You established a residence prior to the date his orders were issued, you will be commuting daily to your new PDS, and the commuting distance is reasonable for this geographic location. With the removal of the funding for an HHG move, you realize you have forfeited the authorization for the government to fund a move. Additionally, you will forfeit the right to receive BAH based on your previous PDS if you move your residence at own expense.

On 13 January 2023, ESO/CPPA/Deployability Coordinator/RED/DA, ██████████ notified PERS-451H that you are requesting continuous BAH due EFM CAT 5. You are transferring from Overseas location. Family is at location prior to overseas location still.

On 13 January 2023, PERS-451H notified ██████████ that, "There is no authority to receive BAH at dependent's location ██████████ because the tour in ██████████ is not unaccompanied eligible, unusually arduous sea duty or, dependent restricted and there is no authority to receive BAH at an alternate location outside of your PDS when a Service member resides with a dependent and commutes to the PDS, as the dependents are to be considered as residing at or in the vicinity of the PDS (DoD 7000.14-R FMR Volume 7A, chapter 26 para. 2.1.3). Based on these conditions, the BAH rate should be based on the PDS. (Ref OPNAVINST 7220.12, OPNAVINST 4650.17, DoD 7000.14-R FMR Volume 7A, chapter 26 para. 10.2.2). If the member feels that the situation warrants an exception to policy, an exception to policy request will require the entire first package to be submitted to OPNAV N130."

On 30 January 2023, BAH at the with-dependent rate for ██████████ stopped effective 22 January 2023. Furthermore, BAH at the with-dependent rate for ██████████ started effective 23 January 2023.

On 8 February 2023, you signed a Special Request/Authorization (NAVPERS 1336/3) requesting exception to policy to receive dependent location BAH due to EFM conditions for zip code ██████████. Furthermore, it was certified on 21 February 2023 by cognizant authority.

On 4 May 2023, you signed a Dependency Application (NAVPERS 1070/602) listing your dependents were residing at ██████████. It was certified on 8 May 2023.

On 16 September 2023, NAVSUP Fleet Logistics Center Norfolk notified the Board that you did not move in accordance with Personal Property Transportation Audit System.

You requested to receive BAH based on the old PDS, the Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, to include your assertions. However, the Board concluded that in accordance with NAVADMIN 101/10 allowances may only be based on the previous PDS—not on the location in which the dependents are residing. Therefore, you do not meet the criteria to receive BAH at the dependents location based on the provisions of a close proximity move. You assert that your son's enrollment in the EFMP, category 5 is justification to receive BAH based on your dependents location. However, your request to PERS-451H was a proximity move request regarding EFMP CAT 5. PERS-451H denied it because it was addressed as a close proximity request. There is no evidence that you submitted a request for BAH/OHA based on dependent location *to allow for continuity of care for dependents who meet the criteria to homestead* to PERS-451H, in accordance with Deputy Chief of Naval Operations memo dated 10 January 2020. Therefore, the Board determined that a change to your record is not warranted.

You are entitled to have the Board reconsider its decision upon submission of new matters, which will require you to complete and submit a new DD Form 149. New matters are those not previously presented to or considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

9/26/2023

