



Work-Product

UNITED STATES AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2022-00327

Work-Product

COUNSEL: NONE

HEARING REQUESTED: NO

APPLICANT'S REQUEST

He be paid Incapacitation (INCAP) pay from 28 Jul 14 through 31 Dec 14.

APPLICANT'S CONTENTIONS

He fell ill while performing his unit's fitness assessment on 26 Jan 14 and was taken to the base hospital where he was told he had a heart attack. While being hospitalized, a stint was placed in his heart and he was diagnosed with Atrial Fibrillation. The military issued a Letter of Determination indicating that the medical condition occurred while he was on duty. He was approved for INCAP pay from 27 Jan 14 through 31 Dec 14 but only received payment for 27 Jan 14 through 27 Jul 14 because his unit did not submit the paperwork to request and/or process this payment while he was hospitalized. Meantime, his health deteriorated significantly and he was advised to get a medical retirement. He was in and out of the hospital until Apr 18 and was unable to follow-up on the status of his INCAP pay.

In support of his request, the applicant provided AF IMT 1971, *Certification for Incapacitation Pay*, showing his unit recommended approval of his INCAP pay from 27 Jul 14 through 27 Jan 15. Additionally, he submitted his original letter authorizing his INCAP pay from 27 Jan 14 through 27 Jul 14 along with his line of duty determination and letters from his employer confirming the loss of his salary. Furthermore, the applicant submitted additional documentation relevant to his case.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a medically retired Air Force Reserve master sergeant (E-7).

On 10 Mar 14, AFRC IMT 348, *Informal Line of Duty Determination*, indicates the applicant's acute myocardial infarction was found to have existed prior to service (EPTS) and was service aggravated with a decision to forwarded to HQ AFRC Line of Duty (LOD) Board.

On 14 Jul 15, AF IMT 1971, provided by the applicant, indicates he was recommended for an extension of his INCAP pay to 27 Jan 15.

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On 8 Jul 15, AF IMT 618, *Medical Board Report*, indicates the applicant was referred to the Informal Physical Evaluation Board (IPEB) for Atrial Fibrillation, chronic kidney disease, mixed connective tissue disease, and Pericardial Effusion.

On 14 Oct 15, the Department of Veterans Affairs (DVA) proposed a disability rating for his Category I unfitting medical condition of Atrial Fibrillation/a flutter secondary to acute myocardial infarction at 60 percent. His other medical conditions of kidney disease, Pulmonary Hypertension, and mixed connective tissue disease were denied a service connection.

On 20 Nov 15, AF Form 356, *Informal Findings and Recommended Disposition of USAF Physical Evaluation Board*, indicates the applicant was found unfit due to his medical condition of Atrial Fibrillation/a flutter secondary to acute myocardial infarction (In LOD) with a disability compensation rating of 60 percent with a recommendation of "Permanent Retirement." His other conditions of chronic kidney disease, Pulmonary Hypertension, and mixed connective tissue disease were found to have EPTS, LOD not applicable and were not rated.

On 7 Dec 15, AF Form 1180, *Action on Physical Evaluation Board Findings and Recommended Disposition*, indicates the applicant agreed with the findings and disposition of the board and waived his right to a formal hearing.

Dated 5 Jan 16, Special Order Work-Product indicates the applicant was permanently disability retired in the grade of master sergeant with a compensable percentage for physical disability of 60 percent, effective 28 Jan 16.

For more information, see the excerpt of the applicant's record at Exhibit B and the advisory at Exhibit C.

AIR FORCE EVALUATION

AFRC/A1KK recommends granting the applicant's request for a six-month INCAP pay extension (28 Jul 14 through 27 Jan 15) finding evidence of an error or injustice. A review of the applicant's pay record shows he received INCAP payments between 27 Jan 14 through 27 Jul 14 in the amount of \$12,622.08. To date, there is no existing record of payment for an extension period after 27 Jul 14. Normally, the Reserve Pay Office (RPO) would receive the payment control number approved by HQ ARPC/DPAA, to process an extension. Per AFRCI 36-3004, *Incapacitation Pay and Management of Reservist Continued on Active Duty Orders*, paragraph 3.4.3, the Military Personnel Flight is responsible for expeditiously forwarding documents to HQ AFRC/DPMB to request a control number for the initial six-month period. Submitted requests for extensions beyond the initial six-month period are forwarded to HQ AFRC/DPMB no later than 30 days prior to the date the previous six-month entitlement. Given that the applicant was previously approved for INCAP pay, and the provided AF IMT 1971 shows signatures through the chain of approval to include the Staff Judge Advocate, with the exception of coordination with HQ ARPC, it appears the wing attempted to facilitate processing a waiver request beyond the initial six-month period, believing the member was eligible. With the existing documentation, AFRC/A1KK supports the applicant's assertion that all documents required for an INCAP extension/waiver to the initial six-month period were supplied but not processed for evaluation and/or approval by SAF/MIR.

Per U.S.C. Title 37, Section 204, Subsection (a)(g), a member of a reserve component of a uniformed service is entitled to the pay and allowances provided by law or regulation for a member of a regular component of a uniformed service of corresponding grade and length of service whenever such member is physically disabled as the result of an injury, illness, or disease incurred or aggravated—(B) in line of duty while performing inactive-duty training. Paragraph (g)(2) further states in the case of a member who receives earned income from nonmilitary employment or self-employment performed in any month in which the member is otherwise entitled to pay and allowances under paragraph (1), the total pay and allowances shall be reduced by the amount of such income. The applicant was issued a LOD determination for injuries sustained in while in inactive-duty training (IDT) status. He also provided applicable civilian income documentation. Paragraph (i)(2) further stipulates pay and allowances may not be paid under subsection (g) or (h) for a period of more than six months. The Secretary concerned may extend such period in any case if the Secretary determines that it is in the interests of fairness and equity to do so.

The complete advisory opinion is at Exhibit C.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION

The Board sent a copy of the advisory opinion to the applicant on 4 Oct 22 for comment (Exhibit D), but has received no response.

FINDINGS AND CONCLUSION

1. The application was not timely filed, but it is in the interest of justice to excuse the delay.
2. The applicant exhausted all available non-judicial relief before applying to the Board.
3. After reviewing all Exhibits, the Board concludes the applicant is the victim of an error or injustice. The Board concurs with the rationale and recommendation of AFRC/A1KK and finds a preponderance of the evidence substantiates the applicant's contentions. Specifically, the applicant provided evidence that shows his unit attempted to facilitate processing a waiver request beyond the initial six-month period to authorize additional INCAP payments which he was eligible for but the request was not processed or approved accordingly. Therefore, the Board recommends correcting the applicant's records as indicated below.

RECOMMENDATION

The pertinent military records of the Department of the Air Force relating to APPLICANT be corrected to show he is entitled to receive Incapacitation (INCAP) pay from 28 July 2014 through 27 January 2015.

CERTIFICATION

The following quorum of the Board, as defined in the Department of the Air Force Instruction (DAFI) 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*, paragraph 2.5, considered Docket Number BC-2022-00327 in Executive Session on 26 Oct 22:

Work-Product	Panel Chair
	Panel Member
Work-Product	Panel Member

All members voted to correct the record. The panel considered the following:

- Exhibit A: Application, DD Form 149, w/atchs, dated 27 Jan 22.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Advisory opinion, AFRC/A1KK, w/atchs dated 30 Sep 22.
- Exhibit D: Notification of advisory, SAF/MRBC to applicant, dated 4 Oct 22.

Taken together with all Exhibits, this document constitutes the true and complete Record of Proceedings, as required by DAFI 36-2603, paragraph 4.12.9.

	7/20/2023
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Board Operations Manager, AFBCMR	
Signed by: USAF	