

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2022-01221

XXXXXXXXXX

COUNSEL: NONE

HEARING REQUESTED: YES

APPLICANT'S REQUEST

She be eligible to receive her Continuation Pay (CP) under the Blended Retirement System (BRS).

APPLICANT'S CONTENTIONS

Due to being on maternity leave and a permanent change of station during the timeframe to elect Continuation Pay, she did not receive notifications. When she changed duty stations she was reassigned to the Defense Intelligence Agency and her e-mail was switched from a traditional Air Force e-mail to a DODIIS email account. As such, she did not receive the notification of eligibility from myPers to submit her application prior to her 12th year of service.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is an active duty staff sergeant (E-5).

The Military Personnel Data System (MilPDS) shows that the applicant's actual "Pay Date" (also referred to as the Pay Entry Base Date [PEBD]) is 7 April 2009. Since she had less than 12 years of service as of 31 December 2017, she was eligible to opt-in to the Blended Retirement System and did so on 7 March 2018. Furthermore, under the Blended Retirement System, the applicant was eligible for Continuation Pay, provided her election was made prior to the 12th anniversary of her "Pay Date" (7 April 2021).

On 12 February 2020, according to AF Form 899, *Request and Authorization for Permanent Change of Station – Military*, Special Order XX-XXXXXX was published reassigning her from Maxwell Air Force Base to the Defense Intelligence Agency at Hickam Air Force Base with a report no later than date of 10 March 2020.

On 12 March 2020, AF Form 469, *Duty Limiting Condition Report*, provided by the applicant indicates that she was placed on duty restriction for pregnancy. The limitations expired on 12 March 2021.

On 3 December 2021, according to "Continuation Pay Statement of Understanding and Election," provided by the applicant, she requested Continuation Pay. On 11 January 2022, her commander approved her request; however, the request was initiated after the 7 April 2021 anniversary of her 12th year from her Pay Date.

On 27 April 2022, according to DD Form 4, *Enlistment/Reenlistment Document – Armed Forces of the United States*, provided by the applicant, she reenlisted for an unspecified period to allow her to serve to her High Year of Tenure for her current rank. Her High Year of Tenure date is currently 7 April 2029.

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

APPLICABLE AUTHORITY/GUIDANCE

General Blended Retirement System Guidance: Sections 631 through 635 of Public Law 114-92, the National Defense Authorization Act for Fiscal Year 2016, amended in Public Law 114-80, National Defense Authorization Act for Fiscal Year 2017.

On 27 January 2017, the Deputy Secretary of Defense implemented guidance for the newly created retirement system for the Uniformed Services, which was enacted in the 2016 National Defense Authorization Act for Fiscal Year 2016. This system, called the Blended Retirement System combines the traditional legacy retirement pension, also known as a defined benefit, with a defined contribution benefit into a Thrift Savings Plan. The Blended Retirement System went into effect on 1 January 2018.

Active component Service members with fewer than 12 years of service as of 31 December 2017, calculated from their Pay Entry Base Date [PEBD] (for the Air Force it is referred to as the "Pay Date"), and members of the National Guard or Reserve who have accrued fewer than 4,320 points as of 31 December 2017, are also grandfathered under the current retirement system but may choose to opt-in to the Blended Retirement System.

Guidance on Continuation Pay: In accordance with AFI 36-3012, *Military Entitlements*, Chapter 4, Continuation Pay and Personnel Services Delivery (PSD) Guide, Blended Retirement System (BRS) Continuation (CP) Execution, Organization, and Responsibilities:

Members of the Uniformed Services who are covered by the Blended Retirement System are eligible to receive a one-time, mid-career bonus payment in exchange for an agreement to perform additional obligated service. The amount is determined by applying a multiplier to the member's monthly base pay. For RegAF Airmen, the multiplier is 2.5 and for ANG or AFR Airmen, the multiplier is 0.5.

Service members eligible to receive continuation pay must have completed not less than 8 and not more than 12 years of service, as computed from the members Pay Entry Base Date (otherwise referred to in the Air Force as the "Pay Date"). In addition, the member must complete the Statement of Understanding and Election (SOU), obtain their commander's approval for Continuation Pay, and commit to a four year military service obligation. The election for Continuation Pay must be made prior to the member's 12th year of service based on pay date but no earlier than 90 days in advance.

According to a myPers article, *Blended Retirement System Continuation Pay*, updated on 12 March 2021, "Airmen will be notified of their potential eligibility for BRS CP and receive a BRS CP Election SOU via myPers messaging starting approximately 90 days prior to the potential BRS CP effective date." In addition, the Continuation Pay fact sheet pulled from myPers states that notification for Continuation Pay will start 60 days before a member's 12th year of service.

For more information, see Exhibit C.

AIR FORCE EVALUATION

AFPC/DP2SSM, recommends granting the application. Based on the documentation provided by the applicant and analysis of the facts, there is evidence of an error or injustice. The applicant's e-mail account changed when she switched duty stations. On 2 December 2021, the applicant

contacted the Total Force Service Center to update her myPers e-mail address and was sent the acknowledgement e-mail for Continuation Pay eligibility. On 3 December 2021, the applicant acknowledged and signed the Statement of Understanding and on 11 January 2022 the applicant's commander signed and approved the request. On 11 January 2022, the applicant submitted the Statement of Understanding; however, the request was rejected because it was submitted after the 12 year pay date anniversary (7 April 2021) and she was no longer eligible to apply for the benefit.

The evidence shows that the applicant did not receive the official notification via myPers. As soon as she discovered the error, she took immediate action to submit her Statement of Understanding; but the delay caused her to lose her Continuation Pay benefits

The complete advisory opinion is at Exhibit D.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION

The Board sent a copy of the advisory opinion to the applicant on 25 May 2022 for comment (Exhibit E), but has received no response.

FINDINGS AND CONCLUSION

1. The application was timely filed.
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 AFPC/DP2SSM and finds a preponderance of the evidence substantiates the applicant's contentions. The Board notes, that the applicant never received the official notifications to submit her application for Continuation Pay in accordance with AFI 36-3012, *Military Entitlements*. Given that the applicant has since obtained the required retainability by reenlisting to her High Year of Tenure and attempted to correct the error immediately upon discovery, the Board finds the evidence sufficient enough to grant her request. 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 that on 1 April 2021, she submitted a timely and effective Continuation Pay Statement of Understanding and Election to accept Continuation Pay in accordance with Public Law 114-80; her election for Continuation Pay was accepted; and she received a 48 month active duty service commitment in exchange for the approved Continuation Pay election.

CERTIFICATION

The following quorum of the Board, as defined in Air Force Instruction (AFI) 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*, paragraph 1.5, considered Docket Number BC-2022-01221 in Executive Session on 12 July 2022:

, Panel Chair
, Panel Member
, Panel Member

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

Exhibit A: Application, DD Form 149, w/atchs, dated 7 April 2022.
Exhibit B: Documentary evidence, including relevant excerpts from official records.
Exhibit C: Blended Retirement System Guidance.
Exhibit D: Advisory opinion, AFPC/DP2SSM, dated 24 May 2022.
Exhibit E: Notification of advisory, SAF/MRBC to applicant, dated 25 May 2022.

Taken together with all Exhibits, this document constitutes the true and complete Record of Proceedings, as required by AFI 36-2603, paragraph 4.11.9.