

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2022-01327

XXXXXXXXXXXXXXXXXX

COUNSEL: NONE

HEARING REQUESTED: NO

APPLICANT'S REQUEST

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

APPLICANT'S CONTENTIONS

He was on a six month deployment during the time he became eligible to apply for Continuation Pay. He did not have access to his home station e-mail and never received the notification of eligibility from MyPers to submit his application prior to his 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 19 January 2010. Since he had less than 12 years of service as of 31 December 2017, he was eligible to opt-in to the Blended Retirement System and did so on 7 January 2018. Furthermore, under the Blended Retirement System, the applicant was eligible for Continuation Pay, provided his election was made prior to the 12th anniversary of his "Pay Date" (19 January 2022).

From 08 August 2021 to 6 February 2022, the Military Personnel Data System shows that the applicant was deployed.

On 6 May 2022, according to "Continuation Pay Statement of Understanding and Election," provided by the applicant, he requested Continuation Pay. On 10 May 2022, his commander approved his request; however, the request was initiated after the 19 January 2022 anniversary of his 12th year from his Pay Date.

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. On 13 September 2021 and 20 September 2021, the applicant was sent a myPers incident to notify him of his potential eligibility for Continuation Pay. On 21 September 21 the applicant acknowledged receipt of the notification and indicated that that he wished to elect Continuation Pay. On 2 May 2022, after reaching his 12 year anniversary on 19 January 2022, he submitted a myPers incident in regards to not receiving Continuation Pay notifications and the applicant was informed that he never submitted his Statement of Understanding. On 10 May 2022, the applicant submitted a signed Statement of Understanding, but the request was rejected because it was submitted after the 12 year mark and he was no longer eligible to apply for the benefit.

Although the evidence shows that the applicant received and acknowledged the official notification of eligibility to opt into Continuation Pay, it is possible that due to his deployment he did not receive the notification to submit his Statement of Understanding. Therefore, DP2SSM

recommends granting the applicant's request since he was not properly notified on how to submit his application, which inadvertently led to the loss of 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 7 June 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 was deployed at the time he became eligible to elect Continuation Pay and find it plausible that he did not receive notification in regards to submitting his Statement of Understanding prior to his 12 year anniversary of his Pay Date. 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 January 2022, the applicant submitted a timely and effective Continuation Pay Statement of Understanding and Election to accept Continuation Pay in accordance with Public Law 114-80; his election for Continuation Pay was accepted; and the applicant 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-2022-01327 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 12 May 2022.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Blended Retirement System Guidance.
- Exhibit D: Advisory opinion, AFPC/DP2SSM, dated 3 June 2022.
- Exhibit E: Notification of advisory, SAF/MRBC to applicant, dated 7 June 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.