

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2022-01818

XXX

COUNSEL: XXXXXXXXXX

HEARING REQUESTED: YES

APPLICANT'S REQUEST

He be placed on Medical Continuation (MEDCON) orders from 23 Jan 22 – 28 Feb 22.

APPLICANT'S CONTENTIONS

Due to various administrative delays and through no fault of his own, there was a gap between his Pre-MEDCON orders ending on 22 Jan 22 and the start of his MEDCON orders, which began on 1 Mar 22. His unit's medical personnel were new to the MEDCON process and he could not obtain his MEDCON orders until he had a scheduled date of surgery and plan of care. Unfortunately, he could not schedule his surgery until the Defense Health Agency (DHA) created an authorization number for TRICARE to cover the claim. When DHA finally approved his authorization, the earliest date he could secure for surgery was 1 Mar 22.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is an Air National Guard master sergeant (E-7).

On xx Dec 21, according to his DD Form 214, *Certificate of Release or Discharge from Active Duty*, in accordance with Title 10 USC 12301(h), he served on active duty in support of Operation SPARTAN SHIELD from 21 Mar 21 to xx Dec 21.

On 30 Jun 22, according to his DD Form 214, the applicant served on active duty in support of the following Title 10 USC 12301(h) tours:

- a. Operation SPARTAN SHIELD (Pre-MEDCON) from 24 Dec 21 to 22 Jan 22 (30 days).
- b. Operation SPARTAN SHIELD (MEDCON) from 1 Mar 22 to 30 Jun 22 (122 days).

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

APPLICABLE AUTHORITY

Department of the Air Force Instruction (DAFI) 36-2910, *Line of Duty (LOD) Determination, Medical Continuation (MEDCON), and Incapacitation (INCAP) Pay*, paragraph 6.8.2. For specific MEDCON application instructions, required documents, and follow on application instructions, refer to the myPers MEDCON webpage.

myPers Website: *Initial MEDCON Application*. Required Documents:

- a. ARC CMD Letter of Acknowledgement - Each block must be initialed and signed; digital and/or wet signatures are accepted. Version 8 must be utilized.
- b. DD Form 2870, *Medical Disclosure Authorization - ARC CMD Release*.
- c. Medical Treatment Document(s) - Current treating Provider clinical documents for each unresolved LOD condition(s) within 30 days.
- d. AF Form 469 – *Duty Limiting Condition Report*, with an Assignment Availability Code (AAC) 31 or 37 and Mobility Restrictions >31 days ("Working Copy" will not be accepted).
- e. Proof of Military Status - Copy of the official order(s) or Inactive Duty for Training (Form 40A or NGB Form 633) placing the member in a status during the time of the injury/illness (must be legible, no draft copies accepted, and in chronological order to include ALL modifications/amendments).
- f. AF Form 348 - *LOD* - (Interim or Finalized) LODs must be processed through ECT and a copy of the ECT LOD is required. Hardcopy LODs are not accepted.

AIR FORCE EVALUATION

AFPC/DPFA recommends granting the applicant's request for MEDCON orders. His original surgery date was scheduled for 11 Jan 22 with a follow up appointment on 24 Jan 22 and physical therapy regimen extending his care 12 weeks with physical therapy two to three times per week. While this plan clearly met MEDCON eligibility, the unit's medical point of contact (MEDPOCs) unfamiliarity with the MEDCON process and the untimeliness of DHA to process the authorization for TRICARE caused a delay in care. This in turn caused his surgery to be postponed until 1 Mar 22 and precluded him from being placed on MEDCON orders during the contested time period. As such, the evidence shows that the applicant would have been one day from his first follow-up appointment on the MEDCON start date and well on his way to beginning his post-operative care if his authorization was initially processed appropriately. Once the authorization for surgery and post-care was finally granted on 31 Jan 22, it allowed him to confirm the earliest surgery date he could which was for 1 Mar 22.

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 17 Aug 22 for comment (Exhibit D) 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/DPFA and finds a preponderance of the evidence substantiates the applicant's contentions. Therefore, the Board recommends correcting the applicant's records as indicated below.

4. The applicant has not shown a personal appearance, with or without counsel, would materially add to the Board's understanding of the issues involved.

RECOMMENDATION

The pertinent military records of the Department of the Air Force relating to APPLICANT be corrected to show that he was placed on active duty orders, for the purpose of medical continuation in accordance with Title 10, U.S.C. §12301(h), from 23 Jan 22 through 28 Feb 22.

CERTIFICATION

The following quorum of the Board, as defined in Air Force Instruction (DAFI) 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*, paragraph 2.5, considered Docket Number BC-2022-01818 in Executive Session on 5 Oct 22:

, 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 6 Jul 22.
Exhibit B: Documentary evidence, including relevant excerpts from official records.
Exhibit C: Advisory opinion, AFPC/DPFA, dated 15 Aug 22.
Exhibit D: Notification of advisory, SAF/MRBC to applicant, dated 17 Aug 22.

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

X

Board Operations Manager, AFBCMR