

**UNITED STATES AIR FORCE
BOARD FOR CORRECTION OF MILITARY RECORDS**

Work-Product

RECORD OF PROCEEDINGS**IN THE MATTER OF:****DOCKET NUMBER:** BC-2022-02349

Work-Product

COUNSEL: Work-Product**HEARING REQUESTED:** NO

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APPLICANT'S REQUEST

His medical continuation (MEDCON) orders be backdated to the end of his Title 10 orders to cover the time period of 8 Apr 22 – 2 Aug 22 and that he receive all pay and entitlements.

APPLICANT'S CONTENTIONS

While on Title 10 orders, in support of Operations ALLIES REFUGE/ALLIES WELCOME, he sustained an injury to his right thumb which eventually required surgical intervention to repair and was accomplished on 20 Apr 22. Due to administrative delays at his unit and no fault of his own, his Line of Duty (LOD) determination was delayed in being initiated and was not completed until 15 Jun 22. After surgery he was prescribed both physical/occupational therapy (PT/OT) and he was forced to use civilian sick leave and vacation time prior to his MEDCON orders activation on 3 Aug 22. He still has not returned to his civilian position as his employer requires he obtain clearance from his surgeon beforehand.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is an Air National Guard technical sergeant (E-6).

From Work-Product according to the applicant's DD Form 214, *Certificate of Release or Discharge from Active Duty*, dated 8 Apr 22, he served on Title 10 USC 12301 (d) orders in support of contingency Operations ALLIES REFUGE/ALLIES WELCOME.

According to documents provided by the applicant:

On 26 Feb 22, according to the applicant's AF Form 348, *Line of Duty Determination*, dated 19 May 22, Block 12, *Details of Death, Injury, Illness or History of Disease*, reads "the applicant was seen at urgent care with a laceration of the right thumb. He was sutured and given a Tetanus-Diphtheria (Tdap) shot. He went to Orthopedics in April with weakness in the thumb and was diagnosed with a lacerated exterior tendon."

On 20 Apr 22, according to the Operative Report, a complete laceration of the extensor pollicis brevis (EPB) tendon was repaired. Additionally, a partial laceration of the extensor pollicis longus (EPL) tendon was repaired.

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CUI//SP-MIL/SP-PRVCY**

Controlled by: SAF/MRB
CUI Categories: SP-MIL/SP-PRVCY
Limited Dissemination Control: N/A
POC: SAF.MRBC.Workflow@us.af.mil

On 19 May 22, AF Form 348, was initiated for laceration of right thumb extensor tendon. On 15 Jun 22, it became Interim and was finalized on the same date when the injury was found In-Line-of-Duty (ILOD).

On 3 Aug 22, according to Special Order number **Work-Product**, dated 25 Aug 22, the applicant was placed on Title 10 MEDCON orders from 3 Aug 22 – 16 Oct 22.

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

APPLICABLE AUTHORITY/GUIDANCE

Department of the Air Force Instruction (DAFI) 36-2910, *Line of Duty (LOD) Determination, Medical Continuation (MEDCON), and Incapacitation (INCAP) Pay*, 3 Sep 21, paragraph 3.2.2.6.3, The immediate commander may issue an Interim LOD determination to establish initial care and treatment pending a final LOD determination.

According to the myPers website, *Initial MEDCON application (applicable to Air National Guard and Air Force Reserve)*, service members must consult with their Guard Medical Unit (GMU) or Reserve Medical Unit (RMU) Medical Point of Contact (MEDPOC) or HQ Readiness Integration Organization/Individual Reserve Medical Office (HQ RIO/IRM) prior to submitting an initial application. MEDCON eligibility requires a Line of Duty (LOD) determination and a finding by a credentialed military health care provider that the Airman has an unresolved health conditions requiring treatment and renders the Airman unable to meet retention or mobility standards IAW DAFMAN 48-123, *Medical Examinations and Standards*.

If the member's medical condition is not resolved prior to completion of the current order or Pre-MEDCON order, MEDCON may be requested through the Air Reserve Component Case Management Division (ARC CMD). An initial MEDCON application must be submitted no later than 15 business days prior to the start of orders request date. Packages should only be submitted for a member showing a LOD condition(s) that will not be medically resolved within 30 days. Required documents: ARC CMD Letter of Acknowledgement; DD Form 2870, Medical Disclosure Authorization; AF Form 469, *Duty Limiting Condition Report*, with an Assignment Availability Code (AAC) of 31 or 37 and Mobility Restrictions greater than 31 days; Proof of Military Status; and AF Form 348, *Line of Duty (LOD) Determination*.

AIR FORCE EVALUATION

AFPC/DPFA, recommends partially granting the applicant's request to backdate his MEDCON orders to cover the period of 15 Jun 22 – 2 Aug 22, to include all pay and entitlements.

After careful review of the evidence provided, the applicant would have met eligibility for MEDCON on 15 Jun 22 as this is the date of the Interim ILOD determination. At that time, the applicant was also placed on Mobility Restrictions and was receiving care (PT, OT, and Orthopedic follow-ups) for the injury that he sustained on 26 Feb 22.

His request to backdate his MEDCON start order to 8 Apr 22 can not be granted as he was still on his original order set until 15 Apr 22. Additionally, he did not provide any evidence to dispute or explain the delays for the LOD or AF Form 469, *Duty Limiting Condition Report*, being initiated. Based off the medical notes provided, it is fair to assume these documents were generated after the applicant reported to the orthopedic surgeon complaining of weakness and limited mobility to right thumb which then drove the need for surgery and the subsequent treatment plan including PT, OT, and Orthopedic follow-up. If the applicant does have documentation explaining the delays

which was outside his control other than the natural progression of the injury, he is encouraged to submit them for additional consideration.

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 Nov 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 in part. Specifically, the applicant has provided his Interim ILOD determination dated 15 Jun 22, which is sufficient to justify granting the applicant's request to backdate his MEDCON start date to 15 Jun 22. However, for the remainder of the applicant's request, the evidence presented did not demonstrate an error or injustice, and the Board finds no basis to recommend granting that portion of the applicant's request to backdate his MEDCON start date to the end of his Title 10 orders. 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 for the period of 15 Jun 22 – 2 Aug 22, he was placed on active duty, for the purposes of medical continuation (MEDCON) in accordance with Title 10, USC 12301 (h).

However, regarding the remainder of the applicant's request, the Board recommends informing the applicant the evidence did not demonstrate material error or injustice, and the application will only be reconsidered upon receipt of relevant evidence not already considered by the Board.

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 2.5, considered Docket Number BC-2022-02349 in Executive Session on 19 Apr 23:

Work-Product	Panel Chair
Work-Product	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 2 Sep 22.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Advisory opinion, AFPC/DPFA, dated 19 Oct 22.
- Exhibit D: Notification of advisory, SAF/MRBC to applicant, dated 17 Nov 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.

5/4/2023

X **Work-Product**

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Board Operations Manager, AFBCMR
Signed by: USAF
