



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

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2022-02571

COUNSEL: NONE

HEARING REQUESTED: NO

APPLICANT'S REQUEST

He be awarded Incapacitation (INCAP) Pay based on the determination his injury was in the line of duty (ILOD).

APPLICANT'S CONTENTIONS

In Feb 20, while reporting to his Air Force Reserve (AFR) duty, he was involved in a serious motor vehicle accident (MVA). In Mar 21 that MVA accident was determined to be ILOD. His INCAP Pay paperwork was held for two years at the medical clinic. He was forced to retire from the AFR in Apr 21 because he was found not World-Wide Qualified (WWQ) due to the accident. He has not received any INCAP pay to date.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a retired Air Force Reserve technical sergeant (E-6), awaiting retired pay at age 60.

The applicant provides a memorandum from his group commander dated 1 Mar 21, which states his LOD determination was approved. As a result of his back strain, wrist sprain and whiplash, he may be entitled to INCAP Pay. The entitlement to INCAP Pay would be based upon his fitness for military duty and or loss of civilian income. The determination of his fitness for military duty would be made by his Reserve Medical Unit (RMU) or active duty military treatment facility (MTF).

On 19 Apr 21, the applicant was relieved from his current assignment and placed on the Retired Reserve List in the grade of E-6 per Reserve Order EK-3568, dated 24 Sep 21.

AIR FORCE EVALUATION

AFRC/FMFQ recommends granting the application if it is determined he is authorized the INCAP Pay. Department of the Air Force Instruction (DAFI) 36-2910, *Line of Duty Determination, Medical Continuation (MEDCON), and Incapacitation (INCAP) Pay*, provides guidance for LOD determinations, including INCAP Pay for injuries/aggravated injuries. The applicant's pay record

[REDACTED]

was reviewed for the period of Feb 20 to present (27 Oct 22) and there has been no payments processed for INCAP Pay.

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 18 November 22 for comment (Exhibit D) but has received no response.

AIR FORCE EVALUATION

AFRC/A1KK recommends denial. There is no approved AF Form 1971, *Certification for INCAP Pay*, documentation stating the applicant was placed in a No Pay/No Points Status, or proof of loss of income. INCAP Pay is authorized based on a member's inability to perform military duties or for those who experience a loss of earned income as a result of an injury, illness or disease that incurred ILOD. The applicant did not provide documentation sufficient support either claim.

In 2017, the applicant was diagnosed with brain cancer and underwent brain surgery in Feb 18, followed by treatments of chemotherapy and radiation. He was approved to return to Reserve status in Feb 19 and continued to report for his duty until his MVA, which occurred on 21 Feb 20. The MVA took place while the applicant was on his way to the unit training assembly (UTA). A LOD was submitted and found ILOD per the AF Form 348, *Line of Duty Determination*, signed and approved on 4 Nov 20. A memorandum dated 1 Mar 21, signed by his commander, was provided to the applicant explaining the potential entitlements. The applicant signed an AF Form 1971 on 21 Apr 21 (after his retirement). The unit point of contact states that the applicant previously signed a hardcopy of the AF Form 1971; however, it was misplaced by the medical staff. However, no documents or evidence have been submitted to sufficiently support the claim.

The AF Form 469, *Duty Limiting Condition Report*, dated 3 Jan 20 did not state he could not attend UTA or annual training (AT), although it was not recommended by the medical authority. The AF Form 469 dated 3 Jan 20 was a little over a month prior to the MVA with an expiration of 2 Jan 21. There is no evidence he was directed to not participate or he was placed in a No Pay/No Points status, which would prevent him from participating in any points or pay gaining military duties. The documentation from the applicant's employer also does not show a loss of civilian income. Because the applicant did not provide sufficient proof, his request would not have met the criteria in DAFI 36-2910.

The complete advisory opinion is at Exhibit E.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION

The Board sent a copy of the advisory opinion to the applicant on 11 Jul 24 for comment (Exhibit F) 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.

[REDACTED]

3. After reviewing all Exhibits, the Board concludes the applicant is not 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 does not substantiate the applicant's contentions. Based on the documentation provided and the facts, there is no evidence of an error or injustice. The applicant did not provide, and the available record does not contain an approved AF Form 1971 stating he was placed in a No Pay/No Points status and there is no proof of loss of income. INCAP Pay is authorized based on a member's inability to perform military duties or those who experience a loss of earned income as a result of an injury, illness or disease incurred in the LOD. The applicant did not provide any documentation to sufficiently support his claims. Therefore, the Board recommends against correcting the applicant's records.

RECOMMENDATION

The Board recommends informing the applicant the evidence did not demonstrate material error or injustice, and the Board will reconsider the application only upon receipt of relevant evidence not already presented.

CERTIFICATION

The following quorum of the Board, as defined in Department of the Air Force Instruction (DAFI) 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*, paragraph 2.1, considered Docket Number BC-2022-02571 in Executive Session on 23 Jun 23 and 16 Oct 24:

[REDACTED] Panel Chair
[REDACTED] Panel Member
[REDACTED] Panel Member

All members voted against correcting the record. The panel considered the following:

- Exhibit A: Application, DD Form 149, w/atchs, dated 15 Sep 22.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Advisory Opinion, AFRC/FMFQ, dated 27 Oct 22.
- Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 18 Nov 22.
- Exhibit E: Advisory Opinion, AFRC/A1KK, dated 31 Oct 23.
- Exhibit F: Notification of Advisory, SAF/MRBC to Applicant, dated 11 Jul 24.

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.

4/18/2025

X

[REDACTED]
[REDACTED]
Board Operations Manager, AFBCMR
Signed by: USAF

AFBCMR Docket Number BC-2022-02571