



CUI//SP-MIL/SP-PRVCY

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

Work-Product

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2022-02656

Work-Product

COUNSEL: *Work-Product*

HEARING REQUESTED: NO

APPLICANT'S REQUEST

He be provided Medical Continuation (MEDCON) orders for the time period of 10 Feb 21 – 12 Apr 21, to include all pay and entitlements.

APPLICANT'S CONTENTIONS

While on inactive duty for training (IDT) status, he was injured and submitted a request for MEDCON through his unit's reserve medical unit (RMU) for his subsequent surgery and recovery. However, he has not been able to get his MEDCON request approved and has exhausted all avenues at the wing level to resolve the issue.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is an Air Force Reserve master sergeant (E-7).

According to documentation provided by the applicant:

On 16 Nov 19, according to AF Form 348, *Line of Duty Determination*, dated 19 Feb 20, while on IDT status he sustained a right knee sprain while completing his Fitness Assessment. On 17 Nov 19, he was diagnosed with "Sprain of other specified parts of right knee; Right knee sprain."

On 19 Feb 20, AF Form 348, was initiated for right knee sprain. On 21 Feb 20, it became Interim and was finalized on 15 Apr 20 when the injury was found In-Line-of-Duty (ILOD).

On 24 Apr 20, according to memorandum, *Line of Duty Determination/Incapacitation Pay*, *Work-Product* the applicant was informed by his commander his LOD determination has been approved and as a result of his injury he may be entitled to incapacitation (INCAP) pay.

APPLICABLE AUTHORITY/GUIDANCE

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

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

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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*.

Department of the Air Force Instruction (DAFI) 36-2910, *Line of Duty (LOD) Determination, Medical Continuation (MEDCON), and Incapacitation (INCAP) Pay*, Chapter 7, INCAP Pay For ARC Members:

Paragraph 7.1.1, states the purpose of INCAP Pay is to authorize pay and allowances to those members who are not able to perform military duties to include light duties not associated with their Air Force Specialty Code (AFSC), because of an injury, illness or disease incurred in the LOD; or to provide pay and allowances to those members who are able to perform military duties but experience a loss of earned income as a result of an injury, illness or disease incurred in the LOD.

In accordance with paragraph 7.2, the initial request for INCAP Pay eligibility requires at a minimum an interim LOD for the initial request for up to six months. An extension beyond six months requires a final LOD determination of ILOD. In addition, a treatment plan by a credentialed military medical provider that annotates the member is unable to perform their military duties, or if member is able to perform military duties, member must demonstrate a loss of civilian earned income. For ARC cases, when there is evidence to believe the LOD determination appears to be contrary to the evidence, the information will be shared with the wing commander for consideration. When appropriate, the wing commander should change the determination. When a determination is changed from ILOD to NILOD, INCAP Pay requests shall be suspended or denied.

IAW paragraph 7.2.1. Unable to Perform Military Duties. A member, who is unable to perform military duties including light duties outside the member's AFSC, as determined by a military medical authority and the member's immediate commander, due to an injury, illness or disease incurred or aggravated ILOD, is eligible for full pay and allowances (including incentives and special pays to which entitled, if otherwise eligible) in accordance with paragraph 7.2, and less any civilian earned income the member has, regardless of type of duty status. If there is no civilian income, there is no offset of monies and member is entitled to full INCAP Pay.

AIR FORCE EVALUATION

AFPC/DPFA recommends denying the applicant's request for MEDCON for the period of 10 Feb 21 – 12 Apr 21, to include all pay and entitlements. After a thorough review of the documentation provided by the applicant and analysis of the facts, there is no evidence of an error or injustice. The applicant provided a copy of his LOD, with a finalized ILOD determination on 15 Apr 20, for "Sprain of other specified parts of right knee: Right knee sprain," which met the criteria for MEDCON. However, although he did not provide a copy of his profile, AF Form 469, *Duty*

Limiting Condition Report, AFPC/DPFA was able to determine he was profiled appropriately with a Mobility Restriction for the same diagnosis from 10 Feb 21 – 1 Sep 21.

Unfortunately, the applicant did not provide any medical documents necessary in order to review and validate MEDCON eligibility. If/when the applicant is able to provide medical treatment notes (to include provider notes, physical therapy/occupational therapy notes, progress notes, surgical notes, etc) for any/and all medical care provided from 10 Feb 21 – 10 Apr 21, he is encouraged to submit for further 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 18 Nov 22 for comment (Exhibit D), and the applicant replied on 15 Dec 22. In his response, the applicant provided additional documentation to include a Duty Limiting Condition Report, dated 10 Feb 21, along with medical treatment notes from two military providers, dated 10 Feb 21 and 16 Feb 21 respectively.

The applicant’s complete response is at Exhibit E.

ADDITIONAL AIR FORCE EVALUATION

AFPC/DPFA retains their recommendation to deny the applicant’s request for MEDCON for the period of 10 Feb 21 – 12 Apr 21 and references AFI 36-2910, paragraph 5.6.1.1, which states that to validate MEDCON requests, the ARC CMD will use occupational medicine guidelines and peer-reviewed recovery timelines and coordinate directly with the member’s treatment team to concur/non-concur with the member’s individual treatment plan and duration of the requested number of days for MEDCON orders.

Despite multiple requests to the applicant for additional post-operative notes from the surgeon and physical therapist detailing the progress during the requested time period, his submission contained documentation from outside the requested time period. While an operative note was provided, the post-operative plan of care was not described, nor was there an expected recovery timeline. Documentation in the form of surgeon post-operative notes and physical therapy notes are requirements for the MEDCON program. Medical documentation leading up to and during the time period in question (10 Feb 2021 – 12 Apr 2021) were never provided to this office.

Additionally, although the member remained on profile, the Deployment Availability Working Group (DAWG)/Airmen Medical Readiness Optimization (AMRO) directed a return-to-duty with restriction on 7 Mar 21, which brings into question the applicant’s status and therefore, his eligibility for MEDCON during the requested time period.

The complete advisory opinion is at Exhibit F.

APPLICANT’S REVIEW OF ADDITIONAL AIR FORCE EVALUATION

The Board sent a copy of the advisory opinion to the applicant on 23 Jan 23 for comment (Exhibit G), 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 not 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 does not substantiate the applicant's contentions. 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 the 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-2022-02656 in Executive Session on 22 Feb 23:

Work-Product	Panel Chair
Work-Product	Panel Member
Work-Product	Panel Member

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

- Exhibit A: Application, DD Form 149, w/atchs, dated 26 Jan 22.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Advisory Opinion, AFPC/DPFA, dated 9 Nov 22.
- Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 18 Nov 22.
- Exhibit E: Applicant's Response, w/atchs, dated 15 Dec 22.
- Exhibit F: Additional Advisory Opinion, AFPC/DPFA, dated 19 Jan 23.
- Exhibit G: Notification of Additional Advisory, SAF/MRBC, dated 23 Jan 23.

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.

7/25/2023

X **Work-Product**

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Board Operations Manager, AFBCMR
Signed by: USAF