

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

Work-Product

**RECORD OF PROCEEDINGS****IN THE MATTER OF:****DOCKET NUMBER:** BC-2022-03067

Work-Product

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

Work-Product

**APPLICANT'S REQUEST**

His medical continuation (MEDCON) orders be backdated to the end of his PRE-MEDCON orders to cover the period of 13 Oct 22 through 24 Oct 22.

**APPLICANT'S CONTENTIONS**

Through no fault of his own, he had a break in orders between his PRE-MEDCOM and MEDCON orders due to processing delays caused by the transition to the new MyFSS system along with the inundation of initial MEDCON cases at the Air Reserve Component Case Management Division (ARC CMD).

He was placed on PRE-MEDCON from 13 Sep 22 – 12 Oct 22 during which time he was seeking a treatment plan and gathering the necessary documents while his Line of Duty (LOD) determination was routing through the system. However, between 16 Sep 22 and 30 Sep 22, ARC CMD was not processing any new MEDCON cases, and it was not until 5 Oct 22, when MyFSS went live, that ARC CMD began processing new cases. On 16 Oct 22, his medical group (MDG) was finally able to submit his MEDCON case which was approved on 7 Nov 22 for the period of 26 Oct 22 – 6 Dec 22.

Because of this break in orders, due to the transition to a new system, he has suffered financial hardship as he was unable to perform either his military or civilian duties and has been relying on medical leave for pay since he finished his deployment on 12 Sep 22.

The applicant's complete submission is at Exhibit A.

**STATEMENT OF FACTS**

The applicant is an Air National Guard staff sergeant (E-5).

According to his DD Form 214, *Certificate of Release or Discharge from Active Duty*, dated Wor... Sep 22, he was on Active Duty in support of Operation FREEDOM SENTINEL in accordance (IAW) with Title 10, USC 12302/12301(d) from 10 Jan 22 - 12 Sep 22.

On 13 Sep 22, according to Order Number Work-Product dated 20 Sep 22, provided by the applicant, he was placed on MEDCON (Reg AF Funded) IAW 10 USC 12301 (h) for the period of 13 Sep 22 – 12 Oct 22.

On 26 Oct 22, according to DRAFT Order Number Work-Product undated, provided by the applicant, he was placed on Active Duty – Voluntary Contingency (MPA) IAW 10 USC 12301 (h) for the period of 26 Oct 22 – 6 Dec 22.

For more information, see 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*. MEDCON eligibility requires an LOD determination and a finding by a credentialed military medical provider that the member has an unresolved health condition requiring treatment that renders the member unable to meet retention or mobility standards in accordance with DAFMAN 48-123, *Medical Examinations and Standards*.

DAFI 36-2910, if the member’s medical condition is not resolved prior to completion of the order or pre-MEDCON order extension, MEDCON may be requested through the ARC CMD. Submit the following required documentation: a copy of the member’s order or documentation indicating the member’s duty status covering the period during which the injury, illness or disease was incurred or aggravated; an Interim or finalized LOD; a completed AF Form 469; a medical evaluation conducted by a credentialed military or civilian medical provider within the last 30 days and certified by a credentialed military medical provider that describes why the member is unable to meet retention or mobility standards IAW AFI 48-123; and medical documentation, including individual medical treatment plan that incorporates occupational medicine guidelines, peer-reviewed recovery timeline with expected duration of the impairment and certified by a credentialed military medical provider.

Department of the Air Force Manual (DAFMAN) 36-2905, *Air Force Physical Fitness Program*, dated 26 Jul 21, paragraph 4.2.3.3. The expiration date on the AF Form 469 represents the date the Airman is medically cleared to resume physical activities previously restricted.

AFI 48-133, *Duty Limiting Conditions*, 7 Aug 20, 1.3. Duty Limitations. Duty limitations will be entered on the AF Form 469, *Duty Limiting Condition Report*. Duty limitations are a type of profile which will indicate what the member cannot do based on his/her current occupational duties with resultant mobility and/or fitness restriction (FR) if appropriate.

### **AIR FORCE EVALUATION**

AFPC/DPFA recommends denying the applicant’s request for backdated MEDCON orders. Based upon the documentation provided by the applicant and analysis of the facts, there is no evidence of an error or injustice. Although the member did have a valid Interim ILOD determination on 13 Oct 22 and was placed on mobility restrictions, he did not submit any progress notes for the prescribed physical therapy for that time frame. The applicant provided the medical notes for the initial 28 Apr 22 physical therapy evaluation and the subsequent 26 May 22 follow-up visit. Additionally, he also provided the medical notes for the magnetic resonance imaging (MRI) along with the prescribed physical therapy (three times per week for four weeks on 6 Oct 22. However, he did not provide the required physical therapy progress notes for the 13 Oct 22 – 25 Oct 22 time frame. Without those progress notes, ARC CMD is unable to validate the need for the requested MEDCON dates and he is encouraged to submit those notes for additional review so that ARC CMD can review and determine eligibility.

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 2 Feb 23 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 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. In addition, the Board notes, Order Number **Work-Product** placed the applicant on MEDCON status from 13 Sep 22 – 12 Oct 22 and not a Pre-MEDCON status as the applicant indicates. Furthermore, the DRAFT Order Number **Work-Product** that was submitted by the applicant are unapproved and are in support of a Contingency Operation and not for the purpose of MEDCON. In this regard, the documentation does not substantiate the applicant’s claims that there was a break in MEDCON orders from 13 Oct 22 through 25 Oct 22. 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 2.5, considered Docket Number BC-2022-03067 in Executive Session on 24 May 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 19 Nov 22.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Advisory Opinion, AFPC/DPFA, dated 30 Jan 23.
- Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 2 Feb 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.

7/19/2023

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Board Operations Manager, AFBCMR

Signed by: USAF

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