



CUI//SP-MIL/SP-PRVCY

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

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2022-03070

Work-Product

COUNSEL: NONE

HEARING REQUESTED: YES

APPLICANT'S REQUEST

He be eligible to receive his Continuation Pay under the Blended Retirement System.

APPLICANT'S CONTENTIONS

He acknowledged the receipt for BRS Continuation Pay options on 7 August 2022, but misunderstood what constituted the 12 year anniversary of his "Pay Date." In accordance with Defense Finance and Accounting Service Guidance "How to read an active duty Air Force Leave and Earning Statement", PAY DATE is defined as the date the member entered active duty for pay purposes. Furthermore, in accordance with DoD Financial Management Regulation Vol 7A, ACTIVE DUTY is defined as full-time duty in the active service of a Uniformed Service. Based on his commission date of 12 October 2010, and his 10 January 2011 Entry on Active Duty (EAD), the references guided him to understand that his Pay Date was 10 January 2011. Therefore, he was under the impression that he needed to submit a Statement of Understanding (SOU) by 4 November 2022 to fulfill the requirement before the anniversary of his 12 year Pay Date. It wasn't until after the continuation pay team rejected his BRS Continuation Pay Statement of Understanding on 8 November 2022, that he learned that his pay date was determined with a different interpretation from the references.

The applicant further states that the BRS Continuation Pay was the primary reason he switched retirement systems. He had anticipated the lump sum payment would significantly lessen his financial burden to raise three kids with one paycheck in his house. He has developed his financial plan to make the most out of the continuation lump sum pay option. The pay is budgeted to finance the college tuition for his son starting the 2023 spring semester at Virginia Tech. Without the entitlement, he can't support his son's education and pay off any financial delinquencies with the rest of the entitlement.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is an active duty Air Force lieutenant colonel (0-5).

The Military Personnel Data System (MilPDS) shows that the applicant's actual "Pay Date" (also referred to as the Pay Entry Base Date [PEBD]) is 12 October 2010. Since he had less than 12 years of service as of 31 December 2017, he was eligible to opt-in to the Blended Retirement System and did so on 5 January 2018. Furthermore, under the Blended Retirement System, the applicant was eligible for Continuation Pay, provided his election was made prior to the 12th anniversary of his "Pay Date" (12 October 2022) and he obtained 48 months of retainability from the effective date.

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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

On 7 August 2022, a myPers notification was sent to the applicant indicating that in order to accept BRS Continuation Pay, he must make his election no later than the 12th year service anniversary; however, it does not provide the specific date or what constitutes as the anniversary of the 12th year anniversary.

On 1 November 2022, according to “Continuation Pay Statement of Understanding and Election,” provided by the applicant, he requested Continuation Pay and on that same date, his commander approved his request; however, the request was initiated after the 12 October 2022 anniversary of his 12th year from his Pay Date.

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

APPLICABLE AUTHORITY/GUIDANCE

General Blended Retirement System Guidance: Sections 631 through 635 of Public Law 114-92, the National Defense Authorization Act for Fiscal Year 2016, amended in Public Law 114-80, National Defense Authorization Act for Fiscal Year 2017.

On 27 January 2017, the Deputy Secretary of Defense implemented guidance for the newly created retirement system for the Uniformed Services, which was enacted in the 2016 National Defense Authorization Act for Fiscal Year 2016. This system, called the Blended Retirement System combines the traditional legacy retirement pension, also known as a defined benefit, with a defined contribution benefit into a Thrift Savings Plan. The Blended Retirement System went into effect on 1 January 2018.

Active component Service members with fewer than 12 years of service as of 31 December 2017, calculated from their Pay Entry Base Date [PEBD] (for the Air Force it is referred to as the “Pay Date”), and members of the National Guard or Reserve who have accrued fewer than 4,320 points as of 31 December 2017, are also grandfathered under the current retirement system but may choose to opt-in to the Blended Retirement System.

Guidance on Continuation Pay: In accordance with AFI 36-3012, Military Entitlements, Chapter 4, Continuation Pay and Personnel Services Delivery (PSD) Guide, Blended Retirement System (BRS) Continuation (CP) Execution, Organization, and Responsibilities:

Members of the Uniformed Services who are covered by the Blended Retirement System are eligible to receive a one-time, mid-career bonus payment in exchange for an agreement to perform additional obligated service. The amount is determined by applying a multiplier to the member’s monthly base pay. For RegAF Airmen, the multiplier is 2.5 and for ANG or AFR Airmen, the multiplier is 0.5.

Service members eligible to receive continuation pay must have completed not less than 8 and not more than 12 years of service, as computed from the members Pay Entry Base Date (otherwise referred to in the Air Force as the “Pay Date”). In addition, the member must complete the Statement of Understanding and Election (SOU), obtain their commander’s approval for Continuation Pay, and commit to a four year military service obligation. The election for Continuation Pay must be made prior to the member’s 12th year of service based on pay date but no earlier than 90 days in advance.

According to a myPers article, *Blended Retirement System Continuation Pay*, updated on 12 March 2021, “Airmen will be notified of their potential eligibility for BRS CP and receive a BRS CP

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Election SOU via myPers messaging starting approximately 90 days prior to the potential BRS CP effective date.” In addition, the Continuation Pay fact sheet pulled from myPers states that notification for Continuation Pay will start 60 days before a member’s 12th year of service.

For more information, see Exhibit C.

AIR FORCE EVALUATION

AFPC/DP2SSM, recommends granting the application. The applicant acknowledged their eligibility for CP via myPers incident 220807-000155 on 7 August 2022. This message informed the applicant that an incident would automatically be created which is where they could submit their completed SOU for processing. The applicant and the commander signed the SOU on 1 November 2022, and the applicant submitted it on 4 November 2022 via myPers incident 221104-000015. However, this was after the applicant’s 12 October 2022 12-year anniversary date and the applicant that they were no longer eligible to receive CP. The applicant responded to this message and stated that they thought they had submitted the SOU prior to their 12-year anniversary since they joined in January of 2011.

Based on the documentation provided by the applicant and analysis of the facts, there is evidence of an error or injustice. The applicant did not understand their pay date and projected their 12-year anniversary in Jan 2023, and therefore, did not submit the SOU on time. Although the notifications state ‘pay date’, it can be easily misinterpreted, and the applicant appears to have done everything possible to obtain the BRS CP incentive. Recommend granting relief sought by applicant. The evidence shows that they did not understand their pay date, which inadvertently resulted in their loss of CP benefits.

The complete advisory opinion is at Exhibit D.

APPLICANT’S REVIEW OF AIR FORCE EVALUATION

The Board sent a copy of the advisory opinion to the applicant on 12 January 2023 for comment (Exhibit E), 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/DP2SSM and finds a preponderance of the evidence substantiates the applicant’s contentions. The Board notes, that the applicant submitted their SOU only a few weeks after the 12th anniversary of his actual “Pay Date,” and find it reasonable to believe that based on his 10 January 2011 Entry on Active-Duty date, the applicant was under the impression that he submitted his SOU in a timely manner. In this regard, the Board views this as a procedural oversight and the applicant has provided sufficient evidence to show his intent to request continuation pay in exchange for a four-year military service obligation. 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 that on 1 October 2022, he submitted a timely and effective Continuation Pay Statement of Understanding and Election to accept Continuation Pay in accordance with Public Law 114-80; his election for Continuation Pay was accepted; and he received a 48 month active duty service commitment in exchange for the approved Continuation Pay election.

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 1.5, considered Docket Number BC-2022-03070 in Executive Session on 7 Feb 23:

<i>Work-Product</i>	Panel Chair
<i>Work-Product</i>	Panel Member
<i>Work-Product</i>	Panel Member

All members voted to correct the record. The panel considered the following:

- Exhibit A: Application, DD Form 149, w/atchs, dated 21 November 2022.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Blended Retirement System Guidance.
- Exhibit D: Advisory opinion, AFPC/DP2SSM, dated 11 January 2023.
- Exhibit E: Notification of advisory, SAF/MRBC to applicant, dated 12 January 2023.

Taken together with all Exhibits, this document constitutes the true and complete Record of Proceedings, as required by AFI 36-2603, paragraph 4.11.9.

Work-Product

Board Operations Manager, AFBCMR

Signed by: *Work-Product*