

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2022-03075

XXXXXXXXXXXXXXXXXXXX

COUNSEL: NONE

HEARING REQUESTED: NO

APPLICANT'S REQUEST

He be placed on medical continuation (MEDCON) orders for the period 12 Oct 22 to 24 Oct 22.

APPLICANT'S CONTENTIONS

Due to processing delays by the MEDCON system, he incurred a break between his MEDCON Orders. He should have been continued on MEDCON orders. The break between his MEDCON orders is due to no fault of his own.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a master sergeant (E-7) in the Air National Guard (ANG).

Per his DD Form 214, *Certificate of Release or Discharge from Active Duty*, the applicant performed a period of active duty from 3 Jan 22 to 22 Aug 22 in accordance with 10 U.S.C. § 12302.

Per Special Order dated 27 Aug 22, the applicant was placed on MEDCON orders from 23 Aug 22 to 11 Oct 22.

Per Special Order dated 3 Nov 22, the applicant was placed on MEDCON orders from 24 Oct 22 to 20 Jan 23.

The applicant provides a memorandum for record (MFR) from his medical group (MDG) dated 19 Nov 22 recommending approval for MEDCON orders from 12 to 23 Oct 22 for lost wages. The MFR states the break in MEDCON orders was due to no fault of the applicant but the fault of a new system. The applicant was on Title 10 orders from 3 Jan 22 to 22 Aug 22 when injured during deployment. Upon return to his home station, he was placed on Pre-MEDCON orders for the period of 23 Aug 11 to 11 Oct 22. Between 16 to 30 Sep 22, ARC CMD was not processing new MEDCON cases and it was not until 5 Oct that the new MyFSS went live to start processing new MEDCON cases. Due to the delay, they requested his Pre-MEDCON orders be extended but their request was denied. On 25 Oct 22, his request was finally approved and orders were created for 24 Oct 22 to 20 Jan 23. During this time, ARC CMD advised they were behind on processing cases but was unable to backdate his MEDCON orders. The applicant, a firefighter, was unable to perform military or civilian duties and suffered a financial hardship.

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

AIR FORCE EVALUATION

AFPC/DPFA recommends denial. There does not appear to be a significant delay caused by the transition to MyFSS. Although the applicant did meet basic MEDCON eligibility criteria on 27 Sep 22, he would still have incurred a break in orders given the normal processing timeline for MEDCON initial applications, which is 10 to 15 business days. The applicant's MEDCON order was processed in 11 business days.

The applicant was initially injured on 9 Mar 22. A medical plan of care that met MEDCON eligibility requirements was in place on 20 Sep 22. By 27 Sep 22, he was placed on a mobility restricting profile and possessed a valid interim LOD. Due to the transition to MyFSS, there was a potential delay of six business days, from 27 Sep 22 to 5 Oct 22. The applicant would have had to meet specific eligibility criteria in DAFI 36-2910, *Line of Duty (LOD) Determination, Medical Continuation (MEDCON) and Incapacitation (INCAP) Pay*. An individual treatment plan approved by a credentialed military provider based on occupational medicine guidance and peer reviewed recovery timelines that includes the expected duration of the impairment was required. This criteria was initially not met. The applicant was prescribed physical therapy two times per week for six weeks beginning on 7 Oct 22. He did not provide the progress notes for the care. In order to validate the need for MEDCON, progress notes are needed to ensure the applicant was compliant with the recommended treatment plan.

A MEDCON initial application was created by the medical point of contact (MEDPOC) on 7 Oct 22. An automated message went out immediately notifying him that his case would be processed within the next five duty days. On 12 Oct 22, his case was sent to the ARC CMD Medical Branch for validation. Upon review, it was found the original AF Form 348, *Line of Duty Determination*, was canceled by the NGB. There is no explanation why the original LOD was canceled. The case manager uploaded a new AF Form 348 on 21 Oct 22. On 24 Oct 22, the case manager reached out to the MEDPOC and recommended an additional LOD be considered to cover the applicant's other medical conditions and the MEDPOC recommended creating a new LOD.

The case manager provided an MFR documenting that ARC CMD was not processing new MEDCON cases between 16 Sep 22 and 30 Sep 22; however, the applicant did not have a mobility restricting profile until 27 Sep 22, there was only a six day gap between this date and 5 Oct 22, when MyFSS went live. Had he been able to meet all other MEDCON eligibility criteria on the same LOD that was signed by his immediate commander, a break in orders would still have occurred on 11 Oct 22 given the published processing timeline of up to 15 business days for new MEDCON applications. The delay appears related to the LOD not being initiated and processed in a timely manner. There is no explanation why it took more than five months, from initial treatment, to create the LOD and more than one month from the LOD initiation to sign the LOD.

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 13 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. The Board notes the applicant provides an MFR from his MDG dated 19 Nov 22 stating the delay in processing his MEDCON orders was due to no fault of the applicant but was the result of a new system resulting in processing delays. However, the Board finds the evidence shows the delay appears to be based on the applicant initially not submitting a treatment plan approved by a credentialed military provider and progress notes for the care as required. Moreover, for reasons unknown, the related LOD was not processed in a timely manner. Accordingly, the Board does not find any processing delays due to the new MyFSS system resulted in an injustice to the applicant. 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-2022-03075 in Executive Session on 24 May 23:

, Panel Chair
, Panel Member
, 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/DP3SPAFPC/DPFA, dated 7 Feb 23.
Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 13 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.