



**CUI//SP-MIL/SP-PRVCY**

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

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**RECORD OF PROCEEDINGS**

**IN THE MATTER OF:**

*Work-Product*

**DOCKET NUMBER:** BC-2023-01017

**COUNSEL:** *Work-Product*

**HEARING REQUESTED:** NO

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**APPLICANT'S REQUEST**

His Medical Continuation (MEDCON) orders be reinstated for the period of 16 Oct 21 through 9 Jan 22 and he receive all pay and entitlements.

**APPLICANT'S CONTENTIONS**

On 16 Oct 21, he was removed from MEDCON with the explanation that he had been on MEDCON orders for a year and was no longer entitled to them. However, sometime in Oct 21 his servicing Medical Group submitted an Integrated Disability Evaluation System (IDES) package with multiple diagnoses for review, to include: Chronic Lyme Disease; Chronic Gout; Fibromyalgia; Celiac Disease; Anxiety; Depression; and Achilles Tendon issues. Further, after he reapplied for MEDCON, his requests kept being returned without action so he contacted the Office of Disability Counsel who informed him that it was wrong to have removed him from MEDCON as his application was being processed through the IDES system. When he conveyed this opinion to ARC CMD, to include the wording from DAFI 36-2910, *Line of Duty (LOD) Determination, Medical Continuation (MEDCON), and Incapacitation Pay (INCAP)*, paragraph, 6.13, he was reinstated on MEDCON orders starting 10 Jan 22.

He was incorrectly removed from MEDCON orders while being processed for the IDES system and in accordance with of DAFI 36-2910, paragraph 6.13, he was entitled to remain on orders. Due to this error and injustice, he had no source of income for close to 3 months which caused undue financial hardship.

The applicant's complete submission is at Exhibit A.

**STATEMENT OF FACTS**

The applicant is a retired Air National Guard (ANG) technical sergeant (E-6).

For period of service 1 Dec 14 through 17 Oct 19, the applicant's DD Form 214, *Certificate of Release or Discharge from Active Duty*, shows he was on active duty with the ANG.

On 6 Dec 19, according to Order Number *Work-Product* dated 5 Dec 19, the applicant was placed on Full Time National Guard Duty (FTNGD)-Other Training-Formal Schools Training, for the purpose of Mission Essential Skills Training (MEST), in accordance with Title 32 USC§502(f)(1), Title 32 USC§504, and Title 32 USC§505, for the period of 6 Dec 19 – 13 May 20.

**AFBCMR Docket Number BC-2023-01017  
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Controlled by: SAF/MRB  
CUI Categories: SP-MIL/SP-PRVCY  
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On 9 Jan 20, AF Form 348, *Line of Duty Determination*, Case # [Work-Product] was initiated for Lyme disease. On 24 Jan 20, it became Interim and was finalized on 28 Jan 20 when the illness was found In-Line-of-Duty (ILOD).

On 11 Jan 20, according to Order Number [Work-Product] dated 15 Jan 20, he was placed on FTNGD Title 32 USC§502(f)(1) orders for the purpose of MEDCON for the period of 11 Jan 20 – 9 Feb 20.

On 10 Mar 20, according to Order Number [Work-Product] dated 12 May 20, he was placed on Title 32 FTNGD MEST orders for the period of 10 Mar 20 – 30 Sep 20.

On 1 Oct 20, according to Order Number [Work-Product] dated 6 Oct 21, he was placed on Title 32 FTNGD MEDCON orders for the period 1 Oct 20 – 15 Oct 21.

On 10 Jan 22, according to Order Number [Work-Product] dated 11 Oct 22, he was placed on Title 32 MEDCON orders for the period of 10 Jan 22 – 18 Nov 22.

On 23 Jan 22, according to Air National Guard Readiness Center Commander (ANGRC/CC) memorandum, *Line of Duty Determination Appeal Decision -<applicant name>*, Case#20200709-001, the ANGRC/CC approved the applicant's appeal request and granted a determination of In-Line-of-Duty (ILOD).

On 19 Nov 22, according to Order Number [Work-Product] dated 18 Jan 23, he was placed on Title 32 MEDCON orders for the period of 19 Nov 22 – 3 Mar 23.

On 4 Mar 23, according to Special Order Number ACD – [Work-Product] dated 20 Dec 22, he was permanently disability retired in the grade of technical sergeant (E-6), with a compensable percentage of 100 percent. He was credited with 8 years, 9 months, and 19 days of active service for retirement.

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 Defense Instruction (DoDI) 1241.01, *Reserve Component (RC) Line of Duty Determination for Medical and Dental Treatments and Incapacitation Pay Entitlements*, paragraph 3.a.(2): When an RC Service member is on active duty (AD) or full-time National Guard duty (FTNGD) for a period of more than 30 days and, at the scheduled end of that period, has an unresolved in-LOD condition that may render the member unfit for duty under the Disability Evaluation System (DES), but this has not yet been determined by the DES, the member: (a) Will, with his or her consent, be retained on AD or FTNGD until: 1. Outstanding in-LOD conditions are resolved; or 2. He or she is either found fit for duty, separated, or retired as a result of a DES finding.

Department of the Air Force Instruction (DAFI) 36-2910, *Line of Duty (LOD) Determination, Medical Continuation (MEDCON), and Incapacitation Pay (INCAP)*, 6.2. Eligibility. 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. 6.2.1. Members will be maintained on MEDCON with their consent until: **6.2.1.1.** The ILOD injury, illness or disease is satisfactorily resolved or the resulting disability cannot be improved by further

treatment or hospitalization; **6.2.1.2.** The Reserve Component service member *is identified for referral to the DES* (using the Initial Review in lieu of (IRILO) as the referral into DES), within one year of the initial diagnosis of the condition for which the member received an ILOD finding and the member receives a final determination of fit for duty, separated, or retired; (T-0) 6.2.1.3. One year has transpired since the date of the initial diagnosis and neither actions in paragraph **6.2.1.1** or **6.2.1.2** have occurred.

Paragraph 6.13. Referral to the Disability Evaluation System (DES). 6.13.1. Members on MEDCON orders with a medical condition that may affect continued military service or is potentially disqualifying will be referred to the DES within one year of the diagnosis. **(T-0)**. The DES referral will be made earlier than the one-year limit if the condition is not expected to improve or remains disqualifying (see AFMAN 41-210). **(T-0)**. ARC members on MEDCON orders for more than one year after the diagnosis will be referred to the DES by the ARC LOD Board **(T-1)**. 6.13.1.1. Subject to **paragraphs 6.2** (Eligibility), **6.10.1** (Mandatory Termination) and **6.10.2** (Discretionary Termination), members already on MEDCON orders shall be entitled to remain on those orders for the duration of DES processing.

### **AIR FORCE EVALUATION**

AFPC/DPFA recommends denying the request to reinstate MEDCON for the period of 16 Oct 21 – 9 Jan 22. Based on the documentation provided by the applicant and analysis of the facts, there is no evidence of an error or injustice. The applicant was released from MEDCON on 15 Oct 21, in accordance with DAFI 36-2910, paragraph 6.10.2, which states that MEDCON orders may be terminated at the discretion of the ARC CMD Division Chief, or SAF/MR on extension, for the following: 6.10.2.5, 365 days has passed from the initial diagnosis and an IRILO has not been completed. Therefore, on 16 Oct 21, he did not meet eligibility requirements as more than one year had passed and an IRILO had not been completed.

Additionally, according to DAFI 36-2910, paragraph 6.1, the primary purpose of MEDCON is to facilitate the authorization for access to medical and dental care for members who incur or aggravate an injury, illness or disease while in a qualified duty status and to return members to duty as expeditiously as possible. Members who are referred into DES while on AD may be retained on AD while processing through the DES IAW DoDI 1332.18. However, members without an active treatment plan will not be maintained on MEDCON solely for the purpose of entry in DES. If the member requires further treatment and has a restorative care plan, they may reapply for MEDCON while processing through the DES. The applicant was encouraged to reapply for MEDCON once he was entered into the Disability Evaluation System (DES); however, he would still be held to the eligibility requirements. After entry into the DES, the applicant did not provide any information detailing a restorative treatment plan. However, his Jan 22 MEDCON application contained a restorative treatment plan and on 10 Jan 22, he was brought back onto MEDCON and remained until his retirement.

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 23 Oct 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 the victim of an error or injustice. While the Board notes the recommendation of AFPC/DPFA denying the request to reinstate MEDCON for the period of 16 Oct 21 – 9 Jan 22, the Board finds a preponderance of the evidence substantiates the applicant’s contentions. The Board notes that the applicant has been on active-duty orders since 2014 and was initially placed on MEDCON from 10 Mar 20 to 15 Oct 21. When those orders expired, the applicant had an additional LOD that was being processed and was ultimately found ILOD by the ANGRC/CC on 23 Jan 22. As such, when the applicant came off orders on 15 Oct 21, he still had an unresolved LOD and in accordance with the DoDI 1241.01 he should have remained on active-duty orders until the LOD was complete. Furthermore, the Board notes that the applicant was placed back on MEDCON orders on 10 Jan 22 and remained on those orders until he was given a permanent disability retirement on 3 Mar 23. In this regard, the Board finds that it was highly unlikely there was change in the applicant’s medical condition that no longer warranted MEDCON orders for a three-month period. Given that the applicant had ongoing medical conditions that were found in line of duty and the extended period the applicant had been serving on active-duty orders, the Board finds that the preponderance of the evidence supports the applicant’s request to cover the gap in his MEDCON orders. 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 he was placed on active-duty orders for the purpose of medical continuation from 16 Oct 21 through 9 Jan 22.

**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-2023-01017 in Executive Session on 20 Dec 23:

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

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

- Exhibit A: Application, DD Form 149, w/atchs, dated 21 Feb 23.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Advisory Opinion, AFPC/DPFA, dated 28 Jun 23.
- Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 23 Oct 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.

1/16/2024

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*Work-Product*

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*Work-Product*

Board Operations Manager, AFBCMR

Signed by: USAF