



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-2023-01352

Work-Product

COUNSEL: Work-Product

HEARING REQUESTED: NO

APPLICANT'S REQUEST

His Title 10 orders should have been extended or he should have been placed on Pre-Medical Continuation (Pre-MEDCON), and/or MEDCON, to cover the period of 26 Mar 22 – 31 May 22.

APPLICANT'S CONTENTIONS

He should have either been extended on his original orders or placed on Pre-MEDCON orders during the line of duty (LOD) determination adjudication process. He was deployed on Title 10 orders in support of Task Force Liberty, Operation ALLIES WELCOME, from 1 Sep 21 – 17 Apr 22. During his deployment, he sought mental health care due to the challenges he encountered and the mental health provider from the host Air National Guard wing recommended he seek treatment for complex Post-Traumatic Stress Disorder (PTSD) upon completion of his deployment. The deployment ended earlier than expected and he returned to his home of record on 3 Mar 22. He contacted the mental health provider at Work-Product AFB, and was informed the first available appointment was on 25 Mar 22. This was subsequently cancelled by the provider and rescheduled for 31 Mar 22 and since that date, he has been meeting weekly with the provider. On 1 Apr 22, he informed RIO Det 3 of his return date and of his current medical condition. He was directed to work with HQ RIO/IPR to complete a LOD determination, but he was not offered the opportunity to extend his orders during this time despite notifying the command of his current health status. As a result, his orders ended on 25 Mar 22, prior to his first intake appointment with Work-Product AFB Mental Health Clinic which resulted in a break in orders while his LOD was being adjudicated.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a Space Force Reserve colonel (O-6).

According to Reserve Order Number Work-Product dated 1 Sep 21, the applicant was on Title 10 orders in support of Operation ALLIES WELCOME for an initial period of 30 days, and was subsequently amended on 10 Oct 21, to reflect 61 days.

On 1 Nov 21, according to Reserve Order Number Work-Product dated 5 Nov 21, the applicant was on Title 10 orders in support of Operation ALLIES WELCOME for the period 1 Nov 21 through 17 Apr 22.

On 15 Apr 22, according to AF Form 348, Line of Duty Determination, a LOD was initiated for the diagnosis of F43.9 – reactions to severe stress, unspecified: transcribed as "Unspecified Trauma Stressors-Related Disorders." The LOD was found In Line of Duty (ILOD) and became

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Interim on 4 May 22 when signed by his immediate commander and was finalized 25 May 22 as ILOD by the approving authority.

According to AF Form 469, *Duty Limiting Condition Report*, dated 25 Apr 22, the applicant was placed on mobility restrictions with an accompanying Assignment Availability Code (AAC) 31 that had an initial estimated end date of 22 Oct 22. Subsequent AF Form 469s, dated 9 Sep 22 and 9 Nov 22 extended the estimated end date to 1 Mar 23.

On 1 Jun 22, according to Reserve Order Number Work-Product dated 2 Jun 22, provided by the applicant, he was placed Title 10 MEDCON orders from 1 Jun 22 – 28 Sep 22.

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

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*. Members who meet eligibility criteria for MEDCON may with their consent be retained or recalled to duty under 10 USC § 12301, *Reserve Components Generally*, 10 USC § 12322, *Active Duty for Health Care*.

Paragraph 6.5. Pre-MEDCON. The purpose of Pre-MEDCON orders of up to 30 days is to allow additional time for ARC members on and, the MTF, RMU or GMU to: 1) ascertain whether the medical condition renders the member unable to perform military duties or unable to meet retention and mobility standards in accordance with DAFMAN 48-123; and 2) provide medical documentation to support a request for MEDCON orders with approval from the member, members' commander (either current commander or reporting commander), the using MAJCOM (who is funding the requirement) and the orders issuing authority. Pre-MEDCON orders cannot be backdated.

6.5.1.1. Pre-MEDCON will be activated upon expiration of members' existing tour. (T1). AF Manpower office (AIM) will consider up to 15 days extension to the initial 30 days, with a documented timeline of events, and immediate commanders' letter that attest conscious effort was put forth to avoid issues/delays. (T-1).

6.7. MEDCON Overview. 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.

6.8. Requesting MEDCON Orders. 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. Requests for MEDCON shall be electronically forwarded, with all supporting documentation from the servicing reserve or GMU or from the member's Individual Reservist Readiness Integration Organization/Individual Reserve Medical Office for AFRC Individual Mobilization Augmentee to the ARC CMD for validation and approval of the request and certification of the MEDCON days. (T-1). Note: All email containing personally identifiable information must be encrypted and organizational email box must be able to accept encrypted emails and encryption/signature certificates.

6.8.3. The AFBCMR, Secretary of the Air Force, or other authority may order correction of a separated member's records to provide for retroactive MEDCON orders. Such corrections may occur years after the member belonged to a particular unit and, moreover, the member's unit may no longer exist. In these cases, AFRC and AF/A1 shall work expediently to approve MEDCON orders pursuant to any AFBCMR direction to do so. An AFBCMR corrective order may substitute for the requirement for a Manpower MPA Man-day Management System (M4S) number where no M4S is available.

Air Force Instruction (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

AFRC/SGP, recommends granting the application. Based on the documentation provided by the applicant and analysis of the facts, there is evidence of an error or injustice. The applicant communicated with the DET3/CC and HQ RIO about extending his existing orders or requesting pre-MEDCON due to his mental health issues. A LOD was initiated and during the adjudication process he should have had his orders extended or have been placed on pre-MEDCON for the period 26 Mar 22 – 30 May 22.

The complete advisory opinion is at Exhibit C.

AFPC/DPFA, recommends partially granting the request. Based on the documentation provided by the applicant and analysis of the facts, there is evidence of an error or injustice, and they recommend partially granting his request. On 4 May 22, when his LOD was signed by his immediate commander, the applicant met all MEDCON requirements as his LOD was interim, he was on a profile with mobility restrictions, and was actively engaged in treatment for his LOD condition. Therefore, they recommend MEDCON orders for the period of 4 May 22 – 31 May 22. However, as AFPC/DPFA is not the office of primary responsibility for either extending the qualifying orders or authorizing pre-MEDCON, they recommend AFRC provide additional review and consideration of orders for the time period 26 Mar 22 – 3 May 22.

The complete advisory opinion is at Exhibit E.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION

The Board sent a copy of the advisories opinions to the applicant on 31 Jul 23 and 15 Aug 23 for comment (Exhibits D and F), 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 we note the conflicting advisory opinions prepared in this case; however, after thoroughly reviewing this application, the Board concurs with the rationale and recommendation of the AFRC/SGP and finds a preponderance of the evidence substantiates the applicant's contentions. Given that his injury/medical condition occurred prior to the end of his Title 10 orders, and his injury/medical condition was ultimately found In Line of Duty and warranted

MEDCON, the Board finds in accordance with DAFI 36-2910, the applicant should have been placed on pre-MEDCON orders at the expiration of his Title 10 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 for the period 26 Mar 22 through 31 May 22, he was placed on active duty, for the purposes of medical continuation in accordance with Title 10, U.S.C. §12301(h).

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-2023-01352 in Executive Session on 27 Sep 23 and 18 Jun 24:

<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 15 Jun 22.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Advisory opinion, AFRC/SGP, dated 26 Jul 23.
- Exhibit D: Notification of advisory, SAF/MRBC to applicant, dated 31 Jul 23.
- Exhibit E: Advisory opinion, AFPC/DPFA, dated 10 Aug 23.
- Exhibit F: Notification of advisory, SAF/MRBC to applicant, dated 15 Aug 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.

6/25/2024

X *Work-Product*

Work-Product
Board Operations Manager, AFBCMR
Signed by: USAF