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UNITED STATES AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2023-02381

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COUNSEL: NONE

HEARING REQUESTED: YES

APPLICANT'S REQUEST

She be eligible to receive Continuation Pay (CP) under the Blended Retirement System (BRS) or her election to opt-in to the BRS be reversed and she be allowed to remain under the legacy "High-3" retirement system.

APPLICANT'S CONTENTIONS

She was informed that she would receive CP if she opted into the BRS, but she never received the bonus. While she was notified to apply for CP at 12 years of Total Active Federal Military Service (TAFMS), she was denied CP and was told because she was on Active Guard Orders (AGR) she was not eligible under active-duty rules. Instead, under the Air National Guard (ANG) rules she should have received the bonus on 12 years of service and not TAFMS. In this regard, she was never notified at her 12-year mark and has tried to rectify the situation for the past two years with no resolution.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is an ANG Senior Master Sergeant (E-8).

The Military Personnel Data System (MilPDS) shows the applicant has accrued 5,328 retirement points as of 3 October 2023. However, since she accrued fewer than 4,320 points as of 31 December 2017, she was grandfathered under the current retirement system but was eligible to opt-in to the BRS and did so on 24 April 2018. In addition, the system reflects the applicant's "Pay Date" is 7 April 2004, giving her a 12-year anniversary date of 7 April 2016. Since the anniversary of the applicant's "Pay Date" was prior to the date she opted into the BRS, she was ineligible for CP.

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

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

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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.

AIR FORCE EVALUATION

NGB/AIP, recommends denying the applicant’s request for CP, but recommends a partial grant, by allowing the applicant to revert back to the legacy “High-3” retirement program. The applicant alleges she was notified to apply for CP with a deadline of 11 June 2021 (her 12-year TAFMS date) and on 1 June 2021, NGB/HR extended her enlistment for a period of nine months for the purpose of CP. However, when the applicant opted into the BRS on 24 April 2018, she had more than 12 years of service, calculated from the anniversary of her “Pay Date” (7 April 2004) and not from her TAFMS date and therefore was not eligible for CP.

In accordance with *Blended Retirement System Continuation Pay Personnel Service Deliver Guide (PSDG)*, Section B, Para 5a. *CP Eligibility*, ANG members must “Be enrolled in the Blended Retirement System, be approaching but has not completed 12 years of service, as computed from the member’s pay date, (Note: Airmen who elect to opt-in to the BRS after passing 12 years of service are not eligible for, and will not be offered, BRS CP).”

Based on law and policy, although the applicant was eligible to opt-in to BRS, she was never eligible to receive CP because she had completed more than 12 years of service prior to enrollment in BRS and therefore the request to collect CP should be denied. However, if the Board denies the applicant’s request for CP, then the Board should grant her request to place her back in the legacy “High-3” retirement system. In this regard, at the time that the applicant was given the option to opt-into the BRS she was misinformed on the requirement for CP and it is reasonable to believe that if she had been properly briefed, then she would have elected to remain under the legacy system.

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 October 2023 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. The Board concurs with the rationale and recommendation of NGB/A1P and finds a preponderance of the evidence substantiates the applicant's contentions in part. In this regard, when the applicant opted into the BRS on 24 April 2018, she was ineligible for CP, because she had completed more than 12 years of service, as computed from the anniversary of her "Pay Date," which was prior to her enrollment in BRS. Therefore, the Board finds in accordance with law and policy, the request to collect CP is denied. However, the Board finds the applicant was misinformed on the eligibility requirements for BRS CP and was told it was based on her TAFMS and not based on the 12-year anniversary of her "Pay Date." As such, the Board finds it reasonable to assume if the applicant had been properly briefed on the requirements she would have remained under the "High-3" legacy retirement system. Therefore, the Board recommends correcting the applicant's records as indicated below.
4. The applicant has not shown a personal appearance, with or without counsel, would materially add to the Board's understanding of the issues involved.

RECOMMENDATION

The pertinent military records of the Department of the Air Force relating to APPLICANT be corrected to show that on 24 April 2018, the applicant did not elect to opt into the Blended Retirement System and instead remained under the legacy retirement plan.

However, regarding the remainder of the applicant's request, the Board recommends informing the applicant the evidence did not demonstrate material error or injustice, and the application will only be reconsidered upon receipt of relevant evidence not already considered by the Board.

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-2023-02381 in Executive Session on 13 Feb 24:

Work-Product Panel Chair
Work-Product Panel Member
Work-Product Panel Member

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

Exhibit A: Application, DD Form 149, w/atchs, dated 24 July 2023.

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Exhibit B: Documentary evidence, including relevant excerpts from official records.

Exhibit C: Advisory opinion, NGB/A1P, w/atchs dated 13 October 2023.

Exhibit D: Notification of advisory, SAF/MRBC to applicant, dated 23 October 2023.

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.

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