

## RECORD OF PROCEEDINGS

**IN THE MATTER OF:**

**DOCKET NUMBER:** BC-2023-02687

XXXXXXXXXXXXXX

**COUNSEL:** NONE

**HEARING REQUESTED:** YES

### APPLICANT'S REQUEST

He be allowed to retroactively apply for Health Professional Officer (HPO) Incentive Pay (IP) for the period of 27 Dec 21 through 13 May 22.

### APPLICANT'S CONTENTIONS

The applicant deployed in support of Operation SPARTAN SHIELD from 27 Dec 21 through 13 May 22 and was unaware of his eligibility to receive IP during the deployment until after he returned. After discovering he was eligible to receive IP for the deployment period, he worked with his local Air National Guard (ANG) unit, and the National Guard Bureau (NGB) to allow for the submission of a "Written Agreement for Reserve Component Consolidation of Special Pay (CSP) Incentive Pay (IP) Only Reserve Pay File AGRs (MC, BSC, NC)" to permit his local finance to facilitate back pay. Unable to rectify the request at the local and NGB level, the applicant engaged with his Inspector General office, who advised him to submit a request to the Air Force Board for Correction of Military Records (AFBMCRC).

The applicant's complete submission is at Exhibit A.

### STATEMENT OF FACTS

The applicant is an ANG major (O-4).

On 13 May 22, according to DD Form 214, *Certificate of Release or Discharge from Active Duty*, the applicant was released from active duty after 4 months and 17 days and credited with 3 months and 15 days of Foreign Service. Additionally, Block 11, *Primary Specialty* reflects 47G3A, *Dentist Comprehensive* and Block 18, *Remarks* states he served in support of Operation SPARTAN SHIELD from 27 Dec 21 to 13 May 22.

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

### AIR FORCE EVALUATION

NGB/SGXP, recommends granting the application. The applicant is requesting to receive IP for a deployment from 27 Dec 21 through 13 May 22. Per Title 37 USC 302(f)(b)(1), a reserve health care officer on active duty (other than for training) under a call or order to active duty for a period of more than 30 days but less than one year is entitled to receive medical special pays. However, at the time he entered the tour of active duty, the ANG pay plan was in draft form and due to no clear guidance to the field on IP/Board Certification Pay (BCP), the applicant was not aware of the requirement to submit for IP/BCP prior to starting his tour.

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 16 Oct 23 for comment (Exhibit D), and the applicant replied on 26 Oct 23. In his response, the applicant contended the advisory recommended to grant with an IP payment of \$1,666.67 consistent with the 47G3 AFSC. However, in accordance with the ANG Health Professionals Special and Incentive (HPS&I) Pay Plan, he should receive \$2,083.33 consistent with the 47G3A AFSC. Additionally, the applicant contends he is not eligible to receive the \$500 BCP because he does not maintain a board certification through a certification board recognized by the USAF Dental Corps.

The applicant's complete response is at Exhibit E.

### **ADDITIONAL AIR FORCE EVALUATION**

In response to the applicant's rebuttal, NGB/SGXP provided an updated advisory opinion and still recommends granting the applicant's request for IP for the period 27 Dec 21 through 13 May 22. Based on no clear guidance, the applicant was unaware of the requirement to submit his request prior to starting orders. NGB/SGXP notes the applicant's monthly rate of 1/30<sup>th</sup> for the period in question should reflect \$2,083.33 versus \$1,666.67 and removing the \$500.00 BCP payments.

In addition, NGB/SGXP notes the applicant's local finance office should establish a TIN A28 in the Military Pay System in accordance with AFI 66-116 [sic], Volume 3, Chapter 17. This action should assist in ensuring the applicant maintains eligibility and prevent any future lapses in payment.

The complete advisory opinion is at Exhibit F.

### **APPLICANT'S REVIEW OF ADDITIONAL AIR FORCE EVALUATION**

The Board sent a copy of the advisory opinion to the applicant on 19 Dec 23 for comment (Exhibit G) 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/SGXP and finds a preponderance of the evidence substantiates the applicant's contentions. The Board notes at the time the applicant entered the tour of active duty, the ANG pay plan was in draft form and due to no clear guidance to the field on IP/BCP, the applicant was not aware of the requirement to submit for IP/BCP prior to starting his tour. 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 the APPLICANT be corrected to show that he receives Health Professional Officer (HPO) Incentive Pay (IP) for the period 27 December 2021 to 13 May 2022, based on the eligible rates for his Air Force Specialty Code 47G3A, *Dentist Comprehensive*, in accordance with Title 37 USC 302(f)(b)(1).

### **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-2023-02687 in Executive Session on 13 Feb 24:

, Panel Chair  
, Panel Member  
, Panel Member

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

- Exhibit A: Application, DD Form 149, w/atchs, dated 15 Aug 23.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Advisory opinion, NGB/SGXP, dated 12 Oct 23.
- Exhibit D: Notification of advisory, SAF/MRBC to applicant, dated 16 Oct 23.
- Exhibit E: Applicant's response, dated 26 Oct 23.
- Exhibit F: Additional Advisory opinion, NGB/SGXP, dated 6 Dec 23.
- Exhibit G: Notification of advisory, SAF/MRBC to applicant, dated 19 Dec 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.