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UNITED STATES AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2023-03190

Work-Product

COUNSEL: Work-Product

HEARING REQUESTED: NO

APPLICANT'S REQUEST

He be placed on medical continuation (MEDCON) orders for the period of 10 Oct 22 through 16 Feb 23.

APPLICANT'S CONTENTIONS

On appeal his Line of Duty (LOD) determination of Not In Line of Duty (NILOD) was reversed and changed to In Line of Duty (ILOD). As a result of the original NILOD determination, he was forced to borrow a large sum of money in order to make ends meet as he was unable to work.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is an Air National Guard lieutenant colonel (O-5).

According to documentation provided by the applicant:

On 22 Sep 22, AF Form 348, *Line of Duty Determination*, was initiated for "Complete Tear, ACL-left knee." On 4 Oct 22, his immediate commander determined his condition to be NILOD-Not Due to Member's Misconduct and on 18 Nov 22, the appointing authority found his condition as NILOD-Not Due to Member's Misconduct.

On 13 Sep 23, according to the *Line of Duty Appeal Decision* memorandum - <applicant>, Case# Work-Product the Air National Guard Readiness Center Commander (ANGRC/CC – the appellate authority), approved the applicant's request and granted a determination of ILOD.

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 granting the applicant's request for MEDCON for the period of 10 Oct 22 through 16 Feb 23. Based on the documentation provided by the applicant and analysis of the facts, there is evidence of an error or injustice. The applicant's original LOD determination was found NILOD; however, on appeal the ANGRC/CC determined the applicant's condition to be ILOD. At that point the applicant met all the specified eligibility criteria, in accordance with Department of the Air Force Instruction (DAFI) 36-2910, *Line of Duty (LOD) Determination, Medical Continuation (MEDCON), and Incapacitation (INCAP) Pay*, which states "MEDCON eligibility requires an ILOD determination and a finding by a credentialed military medical

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provider 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*.”

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 20 Nov 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. The Board concurs with the rationale and recommendation of AFPC/DPFA and finds a preponderance of the evidence substantiates the applicant’s contentions. 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 of 10 Oct 22 through 16 Feb 23, 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-2023-03190 in Executive Session on 12 Mar 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 19 Sep 23.

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

Exhibit C: Advisory opinion, AFPC/DPFA, dated 16 Nov 23.

Exhibit D: Notification of advisory, SAF/MRBC to applicant, dated 20 Nov 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.

7/3/2024

X

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Board Operations Manager, AFBCMR

Signed by:

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