



Work-Product

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

### RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2024-00410

Work-Product

COUNSEL: Work-Product

HEARING REQUESTED: NO

### APPLICANT'S REQUEST

He be issued Medical Continuation (MEDCON) orders for the period of 29 Oct 22 – 10 Jan 23.

### APPLICANT'S CONTENTIONS

The applicant did not provide a statement on why this correction should be made. However, the documentation provided by the applicant, suggests the following sequence of events: While on Title 10 orders, for the period of 15 Jul 21 – 15 Jan 22, in support of Operation SPARTAN SHIELD, he injured his left knee which was subsequently diagnosed, on 3 Jan 22, as a complete tear of medial meniscus left knee with surgery scheduled for 1 Jun 22. On 16 Jun 22, he was placed on MEDCON orders for the period of 16 Jun 22 – 30 Sep 22, which were amended to an end date of 28 Oct 22. He was again placed on MEDCON orders on 11 Jan 23 with an end date of 28 Feb 23. Although he is requesting MEDCON to cover the gap of 29 Oct 22 – 10 Jan 23, he does not provide a reason as to why he came off of MEDCON orders on 28 Oct 22.

The applicant's complete submission is at Exhibit A.

### STATEMENT OF FACTS

The applicant is an Air Force Reserve staff sergeant (E-5).

According to documentation provided by the applicant:

On 15 Jul 22, according to Reserve Order Number Work-Product dated 26 Feb 21, the applicant was placed on Title 10 orders in support of Operation SPARTAN SHIELD from 15 Jul 21 – 15 Jan 22.

On 11 May 22, according to AF Form 348, *Line of Duty Determination* (LOD), a LOD (Case Number Work-Product) was initiated for "Complex tear of medial meniscus of left knee, high grade partial to complete tearing of the anterior cruciate ligament of left knee." The injury occurred on 15 Nov 21 and was diagnosed on 3 Jan 22. On 28 Jun 22, the approving authority found his injury to be In Line of Duty (ILOD).

On 2 Jun 22, according to AF Form 469, *Duty Limiting Condition Report*, the applicant was placed on mobility restrictions (MR) and duty restrictions (DR) with a projected release date of 25 Aug 22.

**AFBCMR Docket Number BC-2024-00410**

Work-Product

Controlled by: SAF/MRB

CUI Categories: Work-Product

Limited Dissemination Control: N/A

POC: [SAF.MRBC.Workflow@us.af.mil](mailto:SAF.MRBC.Workflow@us.af.mil)

On 16 Jun 22, according to Reserve Order Number [REDACTED] dated 24 Jun 22, the applicant was placed on MEDCON for the period of 16 Jun 22 – 30 Sep 22. On 20 Sep 22, his MEDCON end date was extended to 28 Oct 22.

On 25 Aug 22, according to AF Form 469, dated 25 Aug 22, the applicant's MR and DR were extended to 28 Oct 22. Further, he was placed on an assignment availability code (AAC) 31 – Temporary no PCS/No deployment status, with an estimated end date of 28 Oct 22.

On 15 Dec 22, according to AF Form 469, the applicant was again placed on MR and DR restrictions and assigned an AAC of 31 with an estimated end date of 28 Feb 23.

On 11 Jan 23, according to Reserve Order Number [REDACTED] dated 24 Jan 23, the applicant was placed on MEDCON for the period of 11 Jan 23 – 28 Feb 23.

On 14 Sep 23, according to the memorandum addressed to the applicant from his squadron commander, signed 28 Jun 22, he was informed his LOD was approved and he may be entitled to incapacitation pay (INCAP).

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 the Air Force Instruction (DAFI) 36-2910, *Line of Duty (LOD) Determination, Medical Continuation (MEDCON), and Incapacitation (INCAP) Pay*, paragraph 6.8.2. For specific MEDCON application instructions, required documents, and follow on application instructions, refer to the myPers MEDCON webpage.

myPers Website: *Initial MEDCON Application*. Required Documents:

- a. ARC CMD Letter of Acknowledgement - Each block must be initialed and signed; digital and/or wet signatures are accepted. Version 8 must be utilized.
- b. DD Form 2870, *Medical Disclosure Authorization* - ARC CMD Release.
- c. Medical Treatment Document(s) - Current treating provider clinical documents for each unresolved LOD condition(s) within 30 days.
- d. AF Form 469 - Profile - with an Assignment Availability Code (AAC) 31 or 37 and Mobility Restrictions >31 days ("Working Copy" will not be accepted).
- e. Proof of Military Status - Copy of the official order(s) or Inactive Duty for Training (Form 40A or NGB Form 633) placing the member in a status during the time of the injury/illness (must be legible, no draft copies accepted, and in chronological order to include ALL modifications/amendments).
- f. AF Form 348 - LOD - (Interim or Finalized) LODs must be processed through Electronic Case Tracking (EC) and a copy of the ECT LOD is required. Hardcopy LODs are not accepted.

## **AIR FORCE EVALUATION**

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 to partially grant his request and reinstate his MEDCON orders for the period of 15 Dec 22 – 10 Jan 23. On 27 Oct 22, the applicant, via myFSS email correspondence, declined MEDCON stating “That said, my intentions remain the same to come off MEDCON orders on 1 Nov 22.” While he provided an individual treatment plan starting on 15 Dec 22 for physical therapy, he did not provide evidence of an individual treatment plan for the period of 29 Oct 22 – 15 Dec 22. Additionally, a reapplication for MEDCON was not submitted until 22 Dec 22 with a requested 15 Dec 22 start date. While there appears to have been an administrative delay in approving his MEDCON orders, he met all the eligibility criteria for MEDCON on 15 Dec 22, therefore, his request should be partially granted and he receive MEDCON orders for the period of 15 Dec 22 – 10 Jan 23.

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 11 Mar 24 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 in part. While, the Board is unable to determine the applicant’s rationale for declining further MEDCON for when MEDCON orders terminated on 27 Oct 22, the Board finds that when he reapplied for MEDCON on 22 Dec 22, he had a treatment care plan by a credentialed military provider and met all the requirements, which is sufficient to justify partially granting his request for MEDCON for the period of 15 Dec 22 through 10 Jan 23. However, for the remainder of the applicant’s request the evidence provided does not show he met the requirements for MEDCON between 29 Oct 22 through 14 Dec 22 and finds no basis to recommend granting that portion of the applicant’s request. 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 he was placed on active duty orders, for the purpose of medical continuation in accordance with Title 10, U.S.C. §12301(h), from 15 Dec 22 through 10 Jan 23.

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**

**AFBCMR Docket Number BC-2024-00410**

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-2024-00410 in Executive Session on 13 Aug 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 2 Feb 24.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Advisory opinion, AFPC/DPFA, dated 6 Mar 24.
- Exhibit D: Notification of advisory, SAF/MRBC to applicant, dated 11 Mar 24.

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.

12/17/2024

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