



Work-Product

UNITED STATES AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2024-00591

Work-Product

COUNSEL: NONE

HEARING REQUESTED: NO

APPLICANT'S REQUEST

His records corrected to show he is entitled to full Title 10 medical retirement benefits.

APPLICANT'S CONTENTIONS

He retired on 15 Jan 19 with over 30 years of total active federal military service (TAFMS) per Reserve Order **Work-Product**. This order incorrectly stated he was not authorized medical benefits (TRICARE) until age 60. The order was amended to correct this error stating he is eligible to receive medical benefits prior to age 60. He has tried to have this corrected several times with TRICARE, but the Defense Finance and Accounting Service (DFAS) keeps rejecting the correction which has caused himself and his wife's medical invoices to be rejected.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a former Air National Guard (ANG) Active/Guard Reserve (AGR) brigadier general (O-7) who converted his regular active-duty retirement to a Reserve retirement.

On 14 Jan 19, NGB Form 22, *National Guard Bureau Report of Separation and Record of Service*, reflects the applicant was honorably discharged from the ANG after serving 31 years and 5 months of total service for retired pay. He was discharged, with a narrative reason for separation of "Transfer to the USAF Retired List-AGR Only//20 Years or More of TAFMS//Age 60."

Dated 22 Feb 19, Reserve Order (RO) **Work-Product** indicates the applicant was placed on the retired list in the Retired Reserve Section, with service per Title 10 U.S.C. Section 12732 as 31 years and 4 months. In the remarks section, it is stated the applicant was eligible for retired pay prior to age 60 per fiscal year (FY) 2008 National Defense Authorization Act (NDAA) but was not authorized medical benefits until the applicant's 60th birthday.

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Controlled by: SAF/MRB
CUI Categories: **Work-Product**
Limited Dissemination Control: N/A
POC: SAF.MRBC.Workflow@us.af.mil

Dated 26 Feb 19, RO [Work-Product] amended RO [Work-Product] to state the applicant was authorized medical benefits as of 15 Jan 19 because he was eligible for an active duty retirement under Title 10 U.S.C. Section 8911 and for conversion under Title 10 U.S.C. Section 127.

Dated 25 Jun 19, Special Order [Work-Product] indicates the applicant was honorably discharged from the ANG effective 15 Jan 19. It is noted the applicant applied for transfer to the USAF Reserve Retired List.

Dated 13 Feb 24, RO [Work-Product] rescinded RO [Work-Product]. On this same date, RO [Work-Product] was published which indicates the applicant was placed on the retired list in the Retired Reserve Section, with service per Title 10 U.S.C. Section 12732 as 31 years and 4 months. In the remarks section, it is stated the applicant was eligible for retired pay prior to age 60 per FY 2008 NDAA but was not authorized medical benefits until the applicant's 60th birthday.

Dated 16 Oct 24, RO [Work-Product] rescinded RO [Work-Product]. On this same date, RO [Work-Product] was published which indicates the applicant was placed on the retired list in the Retired Reserve Section, with service per Title 10 U.S.C. Section 12732 as 31 years and 4 months. In the remarks section, it is stated under authority 10 U.S.C. 12741, the applicant's regular retirement was converted to a Reserve retirement, and he was eligible for retired pay prior to age 60 per FY 2008 NDAA but was not authorized medical benefits until the applicant's 60th birthday.

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

AIR FORCE EVALUATION

ARPC/DPTT recommends denying the applicant's request for medical benefits (TRICARE); however, there is evidence of an error or injustice on the part of ARPC. ARPC erroneously issued the applicant three retirement orders under the wrong authority and amended verbiage not in accordance with the law. However, the applicant is not entitled to medical benefits whether retired under Title 10 U.S.C. 12732 or 12741, using a Reduced Retirement Pay Age (RRPA) retirement effective date, until he reaches the age of 60 as stated in Title 10, U.S.C. Section 1074(b)(2) which exempts non-regular retirees from being eligible for healthcare (TRICARE) until they reach the age of 60.

On 16 Jan 19, the applicant requested retirement with an effective date of 15 Jan 19. At the time of the request, the applicant completed 31 years and 4 months of satisfactory service as well as 27 years, 2 months, and 18 days of TAFMS which qualifies for a regular Retirement under Title 10 U.S.C. Section 9311. Additionally, the applicant completed the required time for a Reserve retirement under Title 10, U.S.C. 12741, which is what the applicant applied for.

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 22 Oct 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 not the victim of an error or injustice. The Board concurs with the rationale and recommendation of ARPC/DPTT and finds a preponderance of the evidence does not substantiate the applicant's contentions. Specifically, the applicant chose to retire under Title 10 U.S.C. 12741 to qualify for the higher Reserve retired pay based on his years of satisfactory service. Due to this, he is not entitled to medical benefits (TRICARE) until his 60th birthday even though he received regular retired pay before age 60. Therefore, the Board recommends against correcting the applicant's records.

RECOMMENDATION

The Board recommends informing the applicant the evidence did not demonstrate material error or injustice, and the Board will reconsider the application only upon receipt of relevant evidence not already presented.

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-2024-00591 in Executive Session on 20 Nov 24:

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Panel Chair
, Panel Member
, Panel Member

All members voted against correcting the record. The panel considered the following:

- Exhibit A: Application, DD Form 149, w/atchs, dated 12 Jan 24.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Advisory Opinion, ARPC/DPTT, w/atchs, dated 16 Oct 24.
- Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 16 Oct 24.

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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.

12/9/2024

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Board Operations Manager, AFBCMR
Signed by: USAF

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