



Work-Product

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

RECORD OF PROCEEDINGS

IN THE MATTER OF:

Work-Product

DOCKET NUMBER: BC-2024-00830

COUNSEL: NONE

HEARING REQUESTED: NO

APPLICANT'S REQUEST

He be eligible to receive his Continuation Pay (CP) under the Blended Retirement System (BRS).

APPLICANT'S CONTENTIONS

When he reenlisted in 2019, the Military Personnel Flight (MPF) told him he could only reenlist for the purpose of transferring his GI Bill benefits to his children. However, that was prior to his 12-year deadline for CP and at that time he was unaware of the CP Bonus program. In this regard, he never received any notifications or information this entitlement was available to those who opted into the BRS program. While he was eligible to opt-in to the BRS in January of 2018, his reenlistment was in April of 2019, and the anniversary of his 12-year Pay Date was in April of 2020. Since he did not know about the CP entitlement, he subsequently did not know to look for a CP notification, particularly after being misinformed by the MPF when he reenlisted in 2019. He has since accepted and acknowledged the agreement within the CP Statement of Understanding (SOU) and has met the criteria and service obligation to receive the entitlement.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a Regular Air Force technical sergeant (E-6).

The Military Personnel Data System (MilPDS) shows the applicant's actual "Pay Date" (also referred to as the Pay Entry Base Date [PEBD]) is 29 Apr 08. Since he had less than 12 years of service as of 31 Dec 17, he was eligible to opt-in to the BRS and did so on 16 Jan 18. Furthermore, under the BRS, the applicant was eligible for CP, provided his election was made prior to the 12th anniversary of his "Pay Date" (29 Apr 20) and he committed to a four-year military service obligation from the CP effective date.

On 29 Apr 19, according to DD Form 4, *Enlistment/Reenlistment Document Armed Forces of the United States*, provided by the applicant, he reenlisted for a period of four years and one month.

On 9 Dec 19, according to myFSS notification case **Work-Product** (formerly myPers incident), provided by AFPC/DPMSSM, the applicant was notified via e-mail of his eligibility for BRS-CP.

On 10 Dec 19, according to myFSS notification case **Work-Product** (formerly myPers incident), provided by AFPC/DPMSSM, the applicant received an additional notification indicating he acknowledged receipt and was provided instructions on completing the SOU.

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On 10 Aug 23, according to another DD Form 4, the applicant reenlisted for an unspecified number of years that would allow him to serve up until his High Year of Tenure (HYT) in his current rank (29 Aug 2030).

On 1 Feb 24, according to “Continuation Pay Statement of Understanding and Election,” provided by the applicant, he requested CP and on 26 Feb 24 his commander approved his request; however, the request was initiated after the 29 Apr 20 anniversary of his 12th year from his Pay Date.

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 Jan 17, 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 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 Jan 18.

Active component Service members with fewer than 12 years of service as of 31 Dec 17, 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 Dec 17, 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.

According to a myPers article, Blended Retirement System Continuation Pay, updated on 12 Mar 21, “Airmen will be notified of their potential eligibility for BRS CP and receive a BRS CP Election SOU via myPers messaging starting approximately 90 days prior to the potential BRS CP effective date.” In addition, the Continuation Pay fact sheet pulled from myPers states that

notification for Continuation Pay will start 60 days before a member's 12th year of service and according to DAFI 36-3012, paragraph 2.4.3.4. AFPC will "notify Airmen and Guardians of their eligibility for continuation pay at least 60 days prior to the member's 12-year pay date."

AIR FORCE EVALUATION

AFPC/DPMSSM recommends denying the application. Based on the documentation provided by the applicant and analysis of the facts, there is no evidence of an error or injustice. The applicant's Pay Date is 29 Apr 08, and he has a date of separation (DOS) of 8 Aug 3888. Based on the applicant's Pay Date, his 12-year anniversary date to make the election occurred on 29 Apr 20. On 10 Dec 19, the applicant was sent an initial e-mail via myPers incident [Work-Product] (now myFSS case [Work-Product]) notifying him of his eligibility to elect BRS-CP. The applicant acknowledged receipt of the notification and was advised to complete the SOU and submit it within the case. Since the applicant's 12-year pay date anniversary has passed and the eligibility system notifications were sent to the applicant's e-mail address, DPMSSM does not recommend approving the request.

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 29 Apr 24 for comment (Exhibit D), and the applicant replied on 13 May 24. In his response, the applicant contends in Aug 22, he first learned about the BRS CP program through his wife who had requested training on the program for her office. Even though they were two years past their 12-year anniversary pay date, this was the first time they discovered they would have been eligible for CP. As such, his wife submitted an application to the AFBCMR (docket number BC-2022-02233) and her request for CP was granted. After it was approved, he understood this was the best course of action to correct the error and therefore he submitted his application for the AFBCMR to correct his record.

The applicant goes onto address the advisory opinion and contends he does not remember acknowledging the 10 Dec 19 BRS CP notification; however, he notes during that timeframe, he was a shift worker at a high tempo location and rarely had the opportunity to check his e-mail. In addition, during that period of time, his squadron was still recovering from the devastating flood of 2019 that hit Offutt Air Force Base and the following March of 2020, the COVID-19 pandemic began and he was given a 5-day notice to deploy and left right before he would have reached his 12-year pay date anniversary. Furthermore, the myPers notifications are routine matters that require no action on the part of a member. Had he been aware of the program and the process in the first place, he would have certainly been more mindful of the notifications and would have completed the necessary paperwork.

Moreover, he has since completed the BRS CP SOU and it has been approved by his commander. As such, his failure to complete the SOU prior to his 12-year pay date anniversary is the only thing preventing him from receiving CP, which he directly attributes to the poor messaging throughout the Air Force on the CP benefit and the lack of training and diligence by individuals tasked with informing members of their entitlements. In this regard, the AFBCMR has granted similar cases for members who had "acknowledged" receipt for the BRS CP but did not accomplish the SOU because the information was unclear. He would have taken the appropriate steps to receive the BRS CP Bonus had he known it was an incentive after opting into the BRS. He has served honorably for over 16 years, and this is a clear injustice he is asking the board to rectify.

In support of his rebuttal, the applicant provides a copy of the BCMR directive for docket number BC-2022-02233, indicating their circumstances are similar and the request from the AFBCMR for BRS-CP was approved on 13 Dec 23.

The applicant's complete response is at Exhibit E.

ADDITIONAL AIR FORCE EVALUATION

AFPC/DPMSSM, after further review, changed their recommendation to grant the applicant's request. Based on the documentation provided by the applicant and analysis of the facts, there is evidence of an error or injustice. Although the applicant did not sign the SOU on or before his 12-year pay date anniversary, the myPers/myFSS system only sent out the initial notification and failed to send out additional notifications every month until the applicant's 12-year pay date anniversary.

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 6 Aug 24 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 notes the conflicting advisory opinions prepared in this case; however, after thoroughly reviewing this application, the Board concurs with the rationale and recommendation of AFPC/DPMSSM advisory opinion dated 5 Aug 24 and finds a preponderance of the evidence substantiates the applicant's contentions. The Board notes the applicant only received a single e-mail notification regarding his eligibility for BRS-CP and the myPers system failed to send any follow-up notifications. Furthermore, when the applicant received notification of his eligibility for BRS-CP, the program was still being introduced and the 29 Apr 20 anniversary of his "Pay Date" occurred at the start of the COVID-19 Pandemic. As such, the Board finds it reasonable the high ops tempo of his office, the adjustment to the COVID-19 working environment and the infancy of the Continuation Pay program caused him to overlook the requirements to submit his request for CP. Finally, the applicant has since completed the BRS CP SOU, which his commander approved. Therefore, given the totality of the circumstances surrounding the applicant's situation, 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 on 29 April 2020, the applicant submitted a timely and effective Blended Retirement System Continuation Pay Statement of Understanding and Election to accept Continuation Pay in accordance with Public Law 114-80; his election for Continuation Pay was accepted; and the applicant received a 48 month active duty service commitment in exchange for the approved Continuation Pay election.

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-2024-00830 in Executive Session on 10 Sept 24:

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

- Exhibit A: Application, DD Form 149, w/atchs, dated 28 Feb 24.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Advisory Opinion, AFPC/DPMSSM, w/atchs, dated 22 Apr 24.
- Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 29 Apr 24.
- Exhibit E: Applicant's Response, w/atchs, dated 13 May 24.
- Exhibit F: Advisory Opinion, AFPC/DPMSSM, dated 5 Aug 24.
- Exhibit G: Notification of Advisory, SAF/MRBC to Applicant, dated 6 Aug 24.
- Exhibit H: AFBCMR Docket Number BC-2022-02233, redacted.

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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