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UNITED STATES AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2024-01002

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COUNSEL: NONE

HEARING REQUESTED: YES

APPLICANT'S REQUEST

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

APPLICANT'S CONTENTIONS

He received only one notification of his eligibility for BRS-CP on 30 Oct 23, instead of the prescribed weekly notification. He missed this one e-mail and did not receive further communication until 19 Feb 24 informing him that his eligibility window had closed on 17 Feb 24. He immediately signed the Statement of Understanding (SOU), but since he was three days past the anniversary of his 12-year "Pay Date," his request was denied. In addition, he was assigned to a Geographically Separated Unit (GSU) and did not have access to the typical military personnel service and never received any counseling from Air Force agencies regarding his eligibility. The communication system failed, and he was not duly notified per the intent of the law. He believes this is an injustice as he has served his country diligently for the past 12-years both at home and in combat.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a Regular Air Force major (O-4).

The Military Personnel Data System (MilPDS) reflects the applicant's actual "Pay Date" (also referred to as the Pay Entry Base Date [PEBD]) is 17 Feb 12. 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 6 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" (17 Feb 24) and he obtained 48 months of retainability from the effective date.

On 24 Feb 24, according to a myFSS print-out provided by the applicant, he submitted his BRS SOU to his commander and on that same day his commander approved; however, the BRS Continuation Pay Team denied his application because he failed to sign the SOU on or before the anniversary of his 12-year "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

AFBCMR Docket Number BC-2024-01002

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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 January 2017, 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 January 2018.

Active Component Service members with fewer than 12-years of service as of 31 December 2017, 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 December 2017, 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 PEBD (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 March 2021, “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 notification for Continuation Pay will start 60 days before a member’s 12th year of service.

AIR FORCE EVALUATION

AFPC/DPMSSM (Special Pays), recommends granting the application. Based on the documentation provided by the applicant and analysis of the facts, there is evidence of an error or injustice. The applicant’s 12-year “Pay Date” anniversary was on 17 Feb 24. On 30 Oct 23, he was initially notified of his eligibility for BRS CP via myFSS case **Work-Product**. On 18 Feb 24, the case automatically closed informing the applicant that he was no longer eligible as the anniversary of his 12-year “Pay Date” had passed. Although the applicant did not sign their SOU on or before his 12-year “Pay Date” anniversary, DPMSSM recommends grant since he was stationed at a GSU with limited military personnel services and the myFSS system failed to send the additional notifications that are normally provided prior to the “Pay Date” anniversary.

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 10 May 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/DPMSSM and finds a preponderance of the evidence substantiates the applicant's contentions. The Board notes, the applicant did not receive the required notifications to submit his application for BRS-CP. In addition, as soon as the applicant discovered the error, he submitted his SOU and his commander approved his request, which was only a few days after the anniversary of his 12-year "Pay Date." As such, the Board views this as a procedural oversight and not as evidence of the applicant's intent to refuse CP in exchange for a four-year military service obligation. 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 on 17 February 2024, the applicant submitted a timely and effective 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-2024-01002 in Executive Session on 9 Jul 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 19 Mar 24.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Advisory opinion, AFPC/DPMSSM, w/atchs, dated 30 Apr 24.
- Exhibit D: Notification of advisory, SAF/MRBC to applicant, dated 10 May 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.

9/26/2024

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