



Work-Product

UNITED STATES AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2024-01816

Work-Product

COUNSEL: NONE

HEARING REQUESTED: YES

APPLICANT'S REQUEST

He be eligible to receive Continuation Pay (CP) under the Blended Retirement System (BRS) at the Active Component (AC) rate.

APPLICANT'S CONTENTIONS

He never received an email from his Force Support Squadron (FSS) when he was eligible to collect BRS CP prior to his 12 years of satisfactory service in the military on 16 Jul 21. In addition, he is requesting that he receive the BRS-CP at the AC rate versus the Reserve Component (RC) rate. While the applicant broke his Air Guard Reserve (AGR) contract to go back to the civilian airlines to fulfill a commitment with the airline, he was only off orders for a total of 38 days from 1 May 22 – 8 May 22 and 19 May – 15 Jun 22. Had he known he was eligible for BRS CP he would have stayed on AC orders to fulfill the four years of retainability to receive CP at the AC rate.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is an Air National Guard (ANG) lieutenant colonel (O-5), who had fewer than 4,320 points as of 31 Dec 17. As such, he was grandfathered under the current retirement system but was eligible to opt-in to the BRS.

The Military Personnel Data System (MilPDS) shows on 21 Jan 18 the applicant elected to opt into the BRS. Furthermore, under the BRS, the applicant was eligible for CP, provided his election was made prior to the 12th anniversary of his pay date (16 Jul 09) and he obtained 48 months of retainability from the effective date.

On 2 Jun 21, according to [Work-Product] provided by the applicant, he was placed on Full-Time Duty AGR orders for period of service 21 Jun 21 through 20 Jun 27.

On 8 Apr 22, modification to [Work-Product] provided by the applicant, shows his orders end date was curtailed to reflect 30 Apr 22.

On 3 May 22, according to [Work-Product] provided by the applicant, he was placed on Full Time National Guard Duty – Annual Training from 9 May 22 – 18 May 22.

On 16 Jun 22, [Work-Product] and modification to the order dated 11 Aug 22, provided by the applicant, shows he was placed on Full-Time Duty AGR orders for period of service 16 Jun 22 – 31 Aug 22.

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On 1 Sep 22 [REDACTED] and modification to the order dated 22 Dec 22, provided by the applicant, shows he was placed on Full Time Duty AGR orders beginning on 1 Sep 22 and ending on 31 Aug 25.

On 7 May 24, according to “Continuation Pay Statement of Understanding and Election,” provided by the applicant, he requested CP and on 15 May 24 his commander approved his request; however, the request was not processed prior to the anniversary of his 12th year from his pay date (16 Jul 21).

On 7 May 24, a memorandum provided by the applicant and signed by his FSS POC confirms the applicant was eligible to apply for CP but was not notified by the unit.

According to the applicant’s Point Credit Accounting Report System report, for Reserve and Retention (R/R) year 16 Jul 20 through 15 Jul 21 the applicant was credited with 365 active duty points; for 16 Jul 21 through 15 Jul 22, the applicant received 329 active duty points; 16 Jul 22 through 15 Jul 23 the applicant was credited with 365 active duty points; and for 16 Jul 23 through 15 Jul 24 the applicant was credited with 366 active duty points.

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 BRS 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 BRS 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 CP 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 SOU, obtain their commander’s approval for CP, and commit to a four-year military service obligation. The election

for CP 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 CP fact sheet pulled from myPers states that notification for CP will start 60 days before a member's 12th year of service.

DAFI 36-3012, *Military Entitlements*:

4.3.2. Weighted Factors. Airmen and Guardians will be offered continuation pay when eligible and the following factors (i.e., timing, multiplier calculations, and service obligations) are used to establish continuation pay.

4.3.2.1. Timing. Continuation pay will be paid at 12 years of service, measured by the pay date, and offers are provided no later than 60 days prior to scheduled payments. (T-0)

4.3.2.2. Multiplier. Continuation pay offers will specify the multiplier to be applied to a member's monthly base pay using the "over 12" column on the pay chart. ARC Airmen are paid as if on active duty for computations when establishing base pay. (T-0)

4.3.2.2.2. Reserve Component. Multiplier for ANG and AFR Airmen, including Airmen serving on man-day orders or voluntary limited periods of active duty (VLPAD), is 0.5. The multiplier for Airmen on active guard and reserve duty (as defined in 10 USC § 101(d) (6)) is 2.5. (T-0)

4.3.2.3. Service Obligation. DAF members will accept a service obligation of four years that runs concurrently unless the Airman or Guardian has other service obligations that preclude concurrent obligations.

4.3.2.3.1. Members who received continuation pay but fail to complete the period of service obligation or fail to maintain the skills for which an amount greater than the minimum amount described in paragraph 4.3.2 is paid, are subject to full or partial recoupment.

4.3.2.3.3. Members who desire to waive recoupment should submit waiver requests to SAF/MR for a determination through the respective chains of command: RegAF (AFPC/CC); ANG (NGB/A1); and AFR (AFRC/A1). (T-0)

4.3.2.3.4. Members who incur a period of extended absence, subject to the approval of SAF/MR, which precludes meeting the terms of a service obligation:

4.3.2.3.4.1. Payments are suspended during period of extended absence. (T-0)

4.3.2.3.4.2. If the member is subsequently re-assigned to the member's previous status or a new status at the discretion of SAF/MR, continuation installation payments may resume, and the terms of the service obligation extends to ensure fulfillment of the original agreement.

4.3.2.3.4.3. Failure to comply with the terms of the reinstatement results in continuation payment termination and repayment, as appropriate. (T-0)

AIR FORCE EVALUATION

NGB/A1P recommends partially granting the application. Based on the documentation provided by the applicant and analysis of the facts, there is evidence to support an error occurred at no fault of the applicant. The applicant contends his FSS did not provide notification of eligibility for BRS CP. DAFI 36-3012, Chapter 4, provides eligibility criteria and considerations required before a member may elect to receive CP. The applicant was enrolled in BRS as of 21 Jan 18 and has a pay date of 16 Jul 09. The applicant met 12 years of service on 16 Jul 21. As such, the applicant should have been notified of his BRS CP election option as early as Jan 21 with instructions to submit a BRS CP SOU. With commander approval, members must ensure they are able to meet a 48-month military service obligation to receive the BRS CP benefit.

At the time of election eligibility, the applicant would have met the retainability requirements through the AGR order dated 21 Jun 21 – 20 Jun 27, also potentially qualifying the applicant for the 2.5 multiplier rate. However, the applicant curtailed their AGR orders on 8 Apr 22 resulting in an incomplete service obligation. Based on DAFI 36-3012, paragraph 4.3.2.1., BRS CP eligibility and multiplier is based on the member's status at the time they meet 12 years of service. Current policy interpretation and system requirements limits a member's capability to select the reserve component (0.5) option if they are a Permanent AGR. According to paragraph 4.3.2.3.3. "Members who desire to waive recoupment should submit a waiver request to SAF/MR for a determination through the respective chains of command [NGB/A1]."

Had the applicant been notified according to the prescribed timeline, eligibility requirements to receive the BRS CP benefit could have been met. Based on the member's SOU, service records, and AROWS orders history, the applicant should have been eligible to elect BRS CP at the 2.5 multiplier rate upon reaching 12 years of service on 16 Jul 21. However, the applicant curtailed their AGR orders on 8 Apr 22 resulting in an incomplete service obligation.

Based on current process, if the applicant elects to receive BRS CP payment, he would only be able to retain the amount earned (21 Jun 21 through 30 Apr 22). Any unearned portions will result in a debt and is subject to recoupment unless a waiver is granted by SAF/MR in accordance with DAFI 36-3012, paragraph 4.3.2.3.3.

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 12 Aug 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 and finds a preponderance of the evidence substantiates the applicant's contentions in part. Specifically, the applicant has provided evidence to show he never received the notification to submit his application for CP in accordance with AFI 36-3012 and the *Blended Retirement System Continuation Pay Personnel Service Deliver Guide (PSDG)*, which is sufficient to justify granting the applicant's request to receive BRS-CP. Furthermore, the Board recognizes had the applicant been properly notified of the BRS-CP benefit prior to his 12-year pay date anniversary, he would have had the opportunity not to curtail his orders on 30 Apr 22 and could have avoided a break in his four-year military

service obligation as an AGR. In this regard, the Board notes the applicant was only off orders for 38 days from 1 May 22 - 8 May 22 and 19 May – 15 Jun 22, has since been on full-time AGR orders and is projected to remain on those order through 31 Aug 25. As such, should a portion of the applicant's BRS CP payment be recouped, then the Board encourages the applicant to submit a request to waive the recoupment in accordance with DAFI 36-3012 through his respective chain of command for SAF/MR approval. However, as it stands right now, the applicant will have a break in his four-year military service obligation and only recommends that a BRS-CP SOU be accepted. 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 16 July 2021, 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 military service obligation in exchange for the approved Blended Retirement System Continuation Pay election.

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

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-2024-01816 in Executive Session on 11 Mar 25:

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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 16 May 24.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Advisory opinion, NGB/A1P, dated 26 Jun 24.
- Exhibit D: Notification of advisory, SAF/MRBC to applicant, dated 12 Aug 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.

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