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

### RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2024-01902

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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

The BRS system and the included benefits are still permeating through the service's culture and many members are still uncertain what benefits are available. Due to the passive nature of myFSS notifications for BRS-CP and the unfamiliarity of this allowance at all levels of local leadership, he missed the opt-in date by 41 days. Once he became aware of the procedures, he met all requested timelines and obtained the additional retainability through re-enlistment. The reasons for missing the notification include the aforementioned issues regarding the information surrounding the program and his assignment to a high operations tempo unit that was preparing for a deployment. Furthermore, he received only one email advising him of this option, which went unread due to most of his duties occurring on a different network and the email becoming quickly buried in his inbox. Additionally, while myFSS opens a case number for this option, it is "collapsed" on the login screen by default. If a member does not know it is there, then it is easy to miss. In contrast, he receives multiple notifications from LeaveWeb throughout the approval process and other Air Force applications operate similarly. The BRS-CP notifications need to be improved to avoid members missing their pay. In this regard, it would be an injustice to withhold an allowance from a service member who always intended to be a career airman, but simply missed a button to click they were previously unaware of.

The applicant's complete submission is at Exhibit A.

### STATEMENT OF FACTS

The applicant is a Regular Air Force master sergeant (E-7).

The Military Personnel Data System (MilPDS) reflects the applicant's actual "Pay Date" (also referred to as the Pay Entry Base Date [PEBD]) is 4 Oct 11. 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 2 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" (4 Oct 23) and he committed to a four-year military service obligation from the CP effective date.

On 12 Dec 23, according to DD FM 901, *Reenlistment Eligibility Annex to DD Form 4*, the authority/condition for the applicant's request for reenlistment was for "2<sup>nd</sup>/Career Amn to get retain for Post-9/11 GI Bill/Continuation Pay under BRS." On this same date, according to the applicant's DD Form 4, *Enlistment/Reenlistment Document – Armed Forces of the United States*,

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he enlisted for an unspecified period to serve up to his High Year of Tenure (HYT) for his current grade (HYT: 4 Oct 35).

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 notification for Continuation Pay will start 60 days before a member's 12th year of service and according to DAFI 36-3012, *Military Entitlements*, 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 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 "Pay Date" is 4 Oct 11 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 4 Oct 23. On 29 Jun 23, the applicant was sent an initial e-mail via myFSS case 02257583 notifying him of his eligibility to elect BRS-CP. On 15 Nov 23, the applicant went into the myFSS case and elected CP, which generated the Statement of Understanding after his 12-year Pay Date anniversary. On 4 Mar 24, the AFPC BRS-CP team advised the applicant he was denied CP because he was no longer eligible as his 12-year Pay Date anniversary had passed. However, the 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 C.

### **APPLICANT'S REVIEW OF AIR FORCE EVALUATION**

The Board sent a copy of the advisory opinion to the applicant on 8 Jul 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 only received a single e-mail notification regarding his eligibility for BRS-CP and the myFSS system failed to send any follow-up notifications. In addition, the Board notes the program is still being introduced and there is confusion surrounding the opt-in procedures and requests for CP. Given the applicant has obtained the required retainability for BRS-CP, the Board finds he met the intent of a program designed for retention. As such, the applicant's failure to sign the SOU prior to his 12-year Pay Date anniversary should be regarded as a procedural defect only and should not preclude him from receiving the bonus. 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 4 October 2023, 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**

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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-2024-01902 in Executive Session on 10 September 2024:

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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 24 May 24.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Advisory opinion, AFPC/DPMSSM, dated 1 Jul 24.
- Exhibit D: Notification of advisory, SAF/MRBC to applicant, dated 8 Jul 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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