



[REDACTED]

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

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2025-00179

[REDACTED]

COUNSEL: NONE

HEARING REQUESTED: YES

APPLICANT'S REQUEST

He be awarded incapacitation (INCAP) pay from 5 Apr 19 through 16 Mar 23.

APPLICANT'S CONTENTIONS

He was not afforded the opportunity to apply for INCAP pay due to the onset of COVID-19 restrictions. He was in a no pay/no points status, could not perform his military duties and did not have civilian employment at the time due to his disabilities. Due to the injuries, he sustained during his 2017 deployment, he was medically processed for separation which did not happen until Mar 23. He was not aware he was entitled to INCAP pay until he received his AF Form 356, *Informal Findings and Recommended Disposition of USAF Physical Evaluation Board*, which indicated he was eligible. He tried repeatedly to apply for INCAP pay but never received help or guidance. He missed out on opportunities for work due to his injuries. He suffered for years while being in the medical discharge process without pay.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a medically retired Air Force Reserve (AFR) technical sergeant (E-6).

The DD Form 214, *Certificate of Release or Discharge from Active Duty*, issued on 11 Aug 06 reflects the applicant was honorably discharged from the regular Air Force after serving seven years of active duty. He was discharged, with a narrative reason for separation of "Completion of Required Active Service."

On 5 Feb 17, the applicant enlisted in the AFR.

Per the DD Form 214 issued on 6 Jun 17, the applicant served a period of active duty from 27 Feb 17 to 6 Jun 17 in the AFR. He was credited with 3 months and 10 days of active service for this period. He was discharged, with a narrative reason for separation of "Completion of Required Active Service."

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[REDACTED]

Controlled by: SAF/MRB
CUI Categories: [REDACTED]
Limited Dissemination Control: N/A
POC: SAF.MRBC.Workflow@us.af.mil

[REDACTED]

On 27 Dec 17, while deployed, the applicant was found to have low back pain which would significantly limit his daily activities with a recommendation he be evacuated to his home duty station for further evaluation and management (letter provided by the applicant).

Dated 18 Jan 18, AF Form 348, *Line of Duty Determination*, indicates the applicant was provided treatment for his other spondylosis, lumbosacral region on 25 Sep 17. It was noted he woke up with significant lower back pain while he was deployed to Kuwait. On 28 Jan 19, the approving authority determined his condition was in the line of duty (ILOD).

On 14 Feb 18, DD Form 214 reflects the applicant was honorably discharged from a period of active duty with the AFR after serving 7 months and 17 days of active service for this period. He was discharged with a narrative reason for separation of "Completion of Required Active Service."

On 7 Nov 18, DD Form 214 reflects the applicant was honorably discharged from a period of active duty with the AFR after serving 8 months and 23 days of active service for this period. He was discharged with a narrative reason for separation of "Completion of Required Active Service."

Dated 5 Apr 19, a letter to the applicant indicated his LOD was approved and that he may be entitled to INCAP pay. The letter states entitlement to INCAP pay is based on fitness for military duty and loss of civilian income.

Dated 7 Apr 19, AF Form 469, *Duty Limiting Condition Report*, provided by the applicant, indicates he was able to perform administrative duties only.

On 28 Sep 20, the applicant was medically disqualified for continued service. On this same day, DAF Form 618, *Medical Board Report*, indicates the applicant was referred to the Informal Physical Evaluation Board (IPEB) for major depressive disorder (MDD), post-traumatic stress disorder (PTSD) and low back pain.

Dated 2 Aug 22, AF Form 348 indicates the applicant was provided treatment for PTSD, unspecified and MDD from chronic pain on 19 Mar 19. His lower back injury caused severe pain and debilitation which led to his mental health issues. On 27 Sep 22, the appointing authority determined his conditions were ILOD.

Dated 2 Feb 23, the applicant's Service History Report indicates he performed minimal military duty since 12 Aug 19, 23 points for inactive duty training (IDT) between 12 Aug 19 and 11 Aug 22.

On 17 Feb 23, AF Form 356 indicates the applicant was found unfit due to his medical conditions of chronic low back pain and PTSD with a combined disability compensation rating of 70 percent and a recommendation of "Permanent Retirement."

Dated 2 Mar 23, Special Order [REDACTED] indicates the applicant was permanently retired for disability in the grade of technical sergeant with a compensable percentage for physical disability of 70 percent, effective 17 Mar 23.

[REDACTED]

Dated 5 Mar 23, AF Form 77, *Letter of Evaluation*, indicates no report available for the period of 30 Nov 20 through 30 Nov 22 due to the applicant no longer participating.

On 17 Apr 24, AF Form 1971, *Certification for Incapacitation Pay*, provided by the applicant, indicates he requested initial INCAP pay for the period of 5 Apr 19 through 16 Mar 23. No other blocks were filled out to indicate his application was processed.

On 25 May 24, the applicant submitted a letter explaining the delay in submitting INCAP pay stating when he initially inquired about INCAP pay he was incorrectly informed by his unit's support staff personnel he was ineligible; therefore, he did not submit his request (letter provided by applicant).

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

APPLICABLE AUTHORITY/GUIDANCE

Per DoDI 1215.06, *Uniform Reserve, Training, and Retirement Categories for the Reserve Components*, Enclosure 3, paragraph 2.a.(1)(a), Paid Inactive Duty Training (IDT) periods will not be less than 4 hours. No more than 2 IDT periods may be performed in any calendar day.

Per DAFI 36-2910, *Line of Duty (LOD) Determination, Medical Continuation (MEDCON), and Incapacitation (INCAP) Pay*, paragraph 7.1.1, the purpose of INCAP pay is to authorize pay and allowances to those members who are not able to perform military duties to include light duties not associated with their Air Force Specialty Code (AFSC) because of an injury, illness or disease incurred ILOD; or to provide pay and allowances to those members who are able to perform military duties but experience a loss of earned income as a result of an injury, illness or disease incurred in the LOD (37 U.S.C. Section 204).

Per paragraph 7.2 and subsequent paragraphs, the initial request for INCAP pay eligibility requires at a minimum an interim LOD for the initial request for up to six months. An extension beyond six months requires a final LOD determination of ILOD. In addition, a treatment plan by a credentialed military medical provider that annotates the member is unable to perform their military duties, or if member is able to perform military duties, member must demonstrate a loss of civilian earned income.

A member who is unable to perform military duties, including light duties outside the member's AFSC, as determined by a military medical authority and the member's immediate commander, due to an injury, illness or disease incurred or aggravated ILOD, is eligible for full pay and allowances (including incentives and special pays to which entitled, if otherwise eligible) in accordance with paragraph 7.2, and less any civilian earned income the member has, regardless of type of duty status. If there is no civilian income, there is no offset of monies and the member is entitled to full INCAP pay. Reference DoD 7 Financial Management Regulation (FMR) 7000.14-R, *Military Pay Policy –Active Duty and Reserve Pay, Volume 7A, Chapter 57, Table 57-3*. Note:

[REDACTED]

Voluntary leave of absence or voluntary termination of employment from civilian employment does not constitute a loss of civilian earned income that qualifies under this program.

A member who is able to perform military duties as validated by the military medical authority and determined by the immediate commander but demonstrates a loss of civilian earned income as a result of an injury, illness or disease incurred or aggravated in the LOD, is entitled to pay and allowance, including incentive and special pay but not to exceed the amount of the demonstrated loss of civilian earned income or the maximum pay entitlement, whichever is less. If a member does not have any civilian income, then the member is not entitled to INCAP Pay.

INCAP Pay will not exceed six months. If resolution of the injury, illness or disease has not been reached by the end of six months, an evaluation for a potential extension may be conducted by the ARC LOD Board. A Final LOD determination will be needed to request an extension. An extension may be granted for an additional period of time but not to exceed one year. After one year, the member will either be returned to duty, separated or referred to the Disability Evaluation System (DES). Pay and allowances under this instruction shall be paid only during the period a member remains unable to perform military duties or is able to perform military duty but demonstrates a loss of civilian earned income as a result of an injury, illness or disease incurred or aggravated in the LOD. Payment in any particular case may not be made for more than a 6-month period without review of the case by SAF/MR or delegated authority in accordance with Table 7.1 to ensure that continuation of military pay and allowances is warranted under this instruction and to determine whether the member should be referred to the DES.

AIR FORCE EVALUATION

AFRC/SGP recommends partial grant and finds the applicant may be entitled to INCAP pay due to approved ILODs and evidence of non-participation for two years from 2020 to 2022 (30 Nov 20 to 30 Nov 22). Additionally, an initial review in lieu of (IRILO) medical disqualification determination in Sep 20 and his medical retirement effective 16 Mar 23 support this request. AFRC/SGP defers to AFRC/A1 for final adjudication taking into consideration employer supplied proof of decreased income and DAFI 36-2910 limits to determine the length of time, and period of time INCAP pay would be effective if approved as there is insufficient evidence to support INCAP pay for the entire period he is requesting.

DAFI 36-2910 requires the military medical authority and immediate commander determine if a member is unable to perform military duties including light duties outside the members AFSC in reference to INCAP pay. The profiles suggest the applicant was able to perform administrative duties and there is no memorandum from the commander regarding the inability to perform any or all military duties, in particular as early as Apr 19, per the applicant's INCAP pay request. The applicant was determined after an IRILO a Medical Evaluation Board (MEB) to be disqualified for continued military service and an AF Form 77 noted non-participation from 30 Nov 20 to 30 Nov 22. In regard to pay loss, the employer form is signed by the applicant. This form itself would not be considered sufficient to confirm the loss of income.

[REDACTED]

The complete advisory opinion is at Exhibit C.

AFRC/A1 recommends partially granting the applicant's request for INCAP pay. The approved ILODs, evidence of non-participation for two years from 2020 to 2022, the IRILO medical disqualification determination in Sep 20 and his medical retirement effective 16 Mar 23 support this request. DAFI 36-2910 limits six months for initial INCAP application and up to one year for INCAP extension applications.

The complete advisory opinion is at Exhibit E.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION

The Board sent a copy of the advisory opinions to the applicant on 1 Jul 25 and 24 Sep 25 for comment (Exhibits D and F) but 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 recommendations of AFRC/SGP and AFRC/A1 and finds a preponderance of the evidence substantiates the applicant's contentions in part. Specifically, the approved ILODs, evidence of his non-participation and his subsequent retirement for physical disability demonstrate the applicant was eligible for INCAP pay. The Board notes the 5 Apr 19 letter indicating the applicant may be entitled to INCAP pay due to his ILOD finding; however, it does appear the applicant continued to perform military duty after this date and continued to do so until sometime in 2020. The Board is unable to determine the exact date the applicant was unable to perform military duties with no civilian employment, only that it was sometime starting in 2020. Accordingly, the Board recommends granting the applicant INCAP pay effective 28 Sep 20, the date the applicant was disqualified from continued service. Further, per DAFI 36-2910, if a member is claiming loss of earned income, a statement from the civilian employer on company letterhead must be provided to verify loss of income. The statement provided by the applicant does not meet the requirement. Therefore, the Board cannot verify the applicant had a loss of civilian income in the amount the applicant indicated. However, it does appear the applicant was unemployed; therefore, according to paragraph 7.2.1, if the member is unable to perform military duties and if there is no civilian income, there is no offset of monies and the member is entitled to full INCAP pay. 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

[REDACTED]

[REDACTED]

The pertinent military records of the Department of the Air Force relating to APPLICANT be corrected to show he is entitled to full INCAP pay from 28 Sep 20 through 16 Mar 23.

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-2025-00179 in Executive Session on 12 Nov 25:

[REDACTED], Panel Chair
[REDACTED], Panel Member
[REDACTED], Panel Member

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

- Exhibit A: Application, DD Form 149, w/atchs, dated 8 Nov 24.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Advisory opinion, AFRC/SGP, dated 2 Jun 25.
- Exhibit D: Notification of advisory, SAF/MRBC to applicant, dated 1 Jul 25.
- Exhibit E: Advisory opinion, AFRC/A1, dated 19 Sep 25.
- Exhibit F: Notification of advisory, SAF/MRBC to applicant, dated 24 Sep 25.

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.

12/28/2025

[REDACTED]

Board Operations Manager, AFBCMR
Signed by: USAF

[REDACTED]