

IN THE CASE OF: [REDACTED]

BOARD DATE: 28 September 2023

DOCKET NUMBER: AR20230002133

APPLICANT REQUESTS:

- record correction to reflect eligibility to receive Blended Retirement System (BRS) Continuation Pay (CP) pursuant to the opt-in
- a personal appearance before the Board

APPLICANT'S SUPPORTING DOCUMENT(S) CONSIDERED BY THE BOARD:

- DD Form 149 (Application for Correction of Military Record)
- Request for Continuation Pay (Blended Retirement System)
- Roster
- Memorandum – Subject: Army Board for Correction of Military Records (ABCMR) Packet Concerns, 7 December 2022
- Email communication
- National Guard Bureau (NGB) Form 23A (Army National Guard (ARNG) Current Annual Statement), 22 December 2022
- DD Form 4 (Enlistment/Reenlistment Document – Armed Forces of the U.S.), 19 February 2010
- Leave and Earnings Statement (LES), 30 December 2022

FACTS:

1. The applicant states in pertinent part that she received notification on 1 December 2022 that she was eligible to receive BRS-CP until 31 December 2022. She contests that she submitted her BRS-CP request on 8 December 2022 with a suspense date of 31 December 2022 to obtain approval from the approving authority based upon her Pay Entry Basic Date (PEBD) of 19 February 2010. She notes that upon submission, she was advised that she had already completed 12 years of service; she denies being aware of this provision.

2. A review of the applicant's available service records reflects the following:

- a. On 19 February 2010, the applicant enlisted in the ARNG for 8 years.

b. On 26 August 2011, the NGB issued Special Orders Number 198 AR announcing Federal recognition of the applicant's initial appointment as a Military Intelligence Officer within the ARNG, effective 20 January 2011.

c. On 19 February 2022, the applicant completed 12 years of service.

d. The applicant remains in the ARNG.

3. The applicant provides:

a. Request for Continuation Pay (Blended Retirement System), dated 8 December 2022 reflective of the applicant's submitted request for CP at a rate of 4 times the monthly basic pay for her current grade (captain CPT/O-3). The applicant agreed to 4 years of Additional Obligated Service (AOS). The applicant also completed the same request on 22 December 2022. Neither document contains the signature of the approval authority nor certifying official.

b. Roster reflective of a list of Soldiers by name to include the applicant eligible for BRS-CP

c. Memorandum – Subject: ABCMR Packet Concerns, dated 7 December 2022, reflective of a self-authored BRS-CP submission timeline. The applicant notes that she received email notification on 1 December 2022 indicating that she was eligible to request BRS-CP. She then submitted her request on 8 December 2022. On 20 December 2022, she was advised that she had already completed 12 years of service and would therefore need to complete an additional BRS-CP request following additional guidelines. This document is provided in its entirety within the supporting documents for the Board's review.

d. Email communication reflective of the applicant being advised to submit her request for BRS-CP to the ABCMR on 20 December 2022 due to her prior completion of 12 years of service.

e. NGB Form 23A, dated 22 December 2022, reflective of the applicant's points earned towards retirement and showing her beginning date in the ARNG as 19 February 2010.

f. LES dated 30 December 2022, reflective of the applicant's pay and entitlements for the month of December 2022 with Thrift Savings Plan (TSP) contributions.

4. On 2 May 2023, the Department of the Army, Office of the Deputy Chief of Staff, G-1, Program Analyst, Compensation and Entitlements Division, provided an advisory opinion recommending denial of the applicant's request noting that her submitted

request lacks the signature of the approval authority and the certifying official. Further, the applicant failed to elect CP prior to reaching 12 years of service.

5. On 5 May 2023, the applicant was provided with a copy of the advisory opinion and afforded 15 days to provide comments. As of 22 August 2023, the applicant had not responded.

**BOARD DISCUSSION:**

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found relief is warranted. The Board found the available evidence sufficient to consider this case fully and fairly without a personal appearance by the applicant.

2. The Board found the applicant received inaccurate guidance that led her to apply for BRS CP after the date she became ineligible for this retention incentive. The Board found the inaccurate guidance created an injustice and indicates similarly situated Soldiers also may not have received timely guidance on this program. Based on a preponderance of the evidence, the Board determined the applicant’s record should be corrected to show she submitted a request for BRS CP prior to the 12th anniversary of her entry into military service and the request was approved.

**BOARD VOTE:**

Mbr 1      Mbr 2      Mbr 3

■	■	■	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:	:	:	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

The Board determined the evidence presented is sufficient to warrant a recommendation for relief. As a result, the Board recommends that all Department of the Army and Army National Guard records of the individual concerned be corrected by showing she submitted a request for BRS CP prior to the 12th anniversary of her entry into military service and the request was approved. The applicant should be paid any monies she is due as a result of this correction.

10/9/2023

X 

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CHAIRPERSON  


I certify that herein is recorded the true and complete record of the proceedings of the Army Board for Correction of Military Records in this case.

REFERENCES:

1. Title 37 United States Code (USC), section 356 (Continuation Pay) provides:

a. The Secretary concerned shall pay CP under subsection (a) to a full TSP member when the member has completed not less than 8 and not more than 12 years of service in a uniformed service. Enters into an agreement with the Secretary to serve for not less than three additional years of obligated service. A full TSP member may elect to receive CP in a lump sum or in a series of not more than four payments.

b. Payment Amount—the Secretary concerned shall determine the payment amount under this section as a multiple of a full TSP member's monthly basic pay. The multiple for a full TSP member who is a member of a Reserve Component, if the member is performing AGR duty (as defined in Title 10, USC, section 101(d)(6)), shall not be less than 2.5 times the member's monthly basic pay. The multiple for a full TSP member who is a member of a Reserve Component not performing AGR duty (as so defined) shall not be less than 0.5 times the monthly basic pay to which the member would be entitled if the member were a member of a Regular Component. The maximum amount the Secretary concerned may pay a member under this section is—

- in the case of a member of a Regular Component—the monthly basic pay of the member at 12 years of service multiplied by 2.5

- in the case of a member of a Reserve Component—the amount of monthly basic pay to which the member would be entitled at 12 years of service if the member were a member of a Regular Component multiplied by 0.5

2. Army Regulation 15-185 (Army Board for Correction of Military Records (ABCMR)) prescribes the policies and procedures for correction of military records by the Secretary of the Army, acting through the ABCMR. The ABCMR may, in its discretion, hold a hearing or request additional evidence or opinions. Additionally, it states in paragraph 2-11 that applicant's do not have a right to a hearing before the ABCMR. The Director or the ABCMR may grant a formal hearing whenever justice requires.

//NOTHING FOLLOWS//