

IN THE CASE OF: ██████████

BOARD DATE: 7 December 2023

DOCKET NUMBER: AR20230002210

APPLICANT REQUESTS: payment of Continuation Pay (CP) under the provisions of the Blended Retirement System (BRS).

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

- DD Form 149 (Application for Correction of Military Record)
- Memorandum - Subject: BRS CP Provision Procedures Calendar Year (CY) 2021, 30 July 2021
- CY 21 CP under the BRS email communication
- U.S. Army Reserve (USAR) Command (USARC) G-1, Retirement Services Officer Services and Support Division email communication, 25 August 2021
- DA Form 4856 (Developmental Counseling Form), 26 August 2021
- Defense Finance and Accounting Service (DFAS) Military Leave and Earnings Statement (LES), 1-30 April 2022

FACTS:

1. The applicant states:

a. He applied for the blended retirement back in 2018. This would give him eligibility to receive the Continuation Pay Bonus. In July of 2021, he received an email from Captain ██████, Retirement Services Officer, Services and Support Division, G-1 stating that he was in his eligibility window to receive the bonus and he had until July 2022 to apply. According to the email he was sent, this deadline was based on his Pay Entry Base Date (PEBD) which is 7 July 2009. The deadline to submit his application as an Active Guard/Reserve (AGR) was 12 years and 364 days from his PEBD as stated in the email.

b. In August of 2021 he submitted all the required documents to his battalion S-1 to submit for said bonus. He sent multiple emails, made phone calls, and had in-person conversations over the next few months. He was told everything was submitted and approved through the U.S. Army Human Resources Command (HRC). When it was received by the 81st Pay Office, they stated they will be processing it and he should see his bonus payment in February 2022. After not receiving it in March he sent another

email asking for an update. He was told the pay office could not pay him since the deadline for submission was now 11 years and 364 days from his PEBD. He has submitted requests for information on this and he was told there is nothing anyone can do.

2. A review of the applicant's military record shows the following:

a. He enlisted in the Regular Army for 4 years on 8 July 2009.

b. On 12 April 2013, DD Form 4 (Enlistment/Reenlistment Document Armed Forces of the United States) shows he enlisted in the USAR for 6 years.

c. On 7 July 2013, he was honorably released from active duty and transferred to his USAR unit. DD Form 214 (Certificate of Release or Discharge from Active Duty) shows he completed 4 years net active service this period and item 4a (Grade, Rate or Rank) shows specialist (SPC)/E-4.

d. On 25 July 2017, Headquarters, 81st Regional Support Command published Orders Number 17-206-00089, which promoted the applicant to the rank/grade of sergeant (SGT)/E-5, effective on with a date of rank of 1 August 2017.

e. On 8 September 2017, Orders Number R-09-704536 published by HRC ordered the applicant to active duty in an Active Guard/Reserve status for 3 years with a report date of 29 September 2017. The Orders show his PEBD as 8 July 2009.

f. DA Form 1506 (Statement of Service - Form Computation of Length of Service for Pay Purposes) completed on 2 August 2018 show his PEBD as 8 July 2009.

g. On 20 September 2019, DA Form 4836 (Oath of Extension of Enlistment or Reenlistment) shows he extended his USAR enlistment for a period of 1 year changing his expiration term of service to 7 December 2021.

h. On 23 July 2021, DD Form 4 shows he reenlisted in the USAR for 6 years.

i. Orders Number R-08-104140 published by HRC ordered the applicant to active duty in an AGR status for an additional active duty commitment of 6 years, effective 24 July 2021.

j. His record contained a Request for CP (BRS) which shows he agreed to accept CP in accordance with (IAW) "BRS CP - Calendar Year 2021 Dated 19 October 2021." The amount of payment would be IAW the above policy message and would be 2.5 times the monthly basic pay for his current pay grade and years of service as listed on

the monthly basic pay table provided by DFAS in effect on the date 26 August 2021. He also agreed to an Additional Obligated Service (AOS) of 4 years commencing from 26 August 2021. The form was endorsed by the certifying official on 6 October 2021 and the approval authority on 28 October 2021.

k. The applicant completed 12 years of service on 8 July 2021.

3. The applicant provides:

a. Memorandum - Subject: BRS CP Provision Procedures CY 2021 dated 30 July 2021, which states, in pertinent part:

(1) A qualifying Soldier must be covered under the BRS and cannot have previously received CP.

(2) AGR Soldiers must have a PEBD between 1 January 2009 and 31 December 2009 and will complete 12 years of service during CY21 as calculated from the Soldier's PEBD.

(3) Troop Program Unit or Individual Mobilization Augmentee Soldiers must have a PEBD between 1 January 2009 and 31 December 2010 and will complete no more than 12 years of service in CY21 based upon the PEBD.

b. CY21 CP under the BRS email communication (no date) and USARC, G-1, Retirement Services Officer Services and Support Division email communication dated 25 August 2021, which shows the applicant was notified that he was eligible for the CY21 CP under the BRS and how to apply.

c. DA Form 4856 dated 26 August 2021, which shows he was counseled regarding him being eligible for CP.

d. DFAS Military LES covering the period of 1 to 30 April 2022, which shows, in pertinent part, a "ROTH Thrift Savings Plan (TSP)" deduction of \$185.22 and he was a participant in the BRS. His grade is shown as E-5 and years of service "12" at the time.

4. On 13 March 2023, the Office of the Deputy Chief of Staff G-1, Program Analyst, Compensation of Entitlements Pay, provided an advisory opinion for the Board's consideration, which states, after careful review of the information provided, we recommend approval of the applicant's request for payment of CP based on the date the applicant would have otherwise been qualified. The CP computation will be based on the pay grade of E-5 with 12 years of service for pay purposes utilizing the 2021 pay scale ($\$3,606.60 \times 2.5 = \$9,017.25$).

5. On 22 March 2023, the G-1 advisory opinion was provided to the applicant to allow him the opportunity to respond. He did not respond.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found relief is warranted.

2. The Board concurred with the conclusion of the advisory official that the evidence in this case supports the requested relief. The Board determined the applicant's record should be corrected to show he submitted a timely request for CP, and he should be paid any monies he is due as a result of this correction.

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 records of the individual concerned be corrected by showing he submitted a timely application for BRS CP. He should be paid any monies he is due as a result of this correction.

2/12/2024

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CHAIRPERSON

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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.

REFERENCE:

Title 37, United States Code (USC), section 356 (Continuation Pay: full TSP (Thrift Savings Plan) members with 8 to 12 years of service) provides:

a. The Secretary concerned shall make payment of 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 (subsection b) 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

//NOTHING FOLLOWS//