

IN THE CASE OF: [REDACTED]

BOARD DATE: 12 September 2024

DOCKET NUMBER: AR20230003497

APPLICANT REQUESTS: payment of the remaining 30% disbursement of his prior service enlistment bonus.

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

- DD Form 149 (Application for Correction of Military Record)
- DD Form 4 (Enlistment Document), 8 June 2010
- Annex X to DD Form 4 (Prior Service Enlistment Bonus Addendum – Army National Guard of the United States), 8 June 2010
- Bonus Payment History

FACTS:

1. The applicant did not file within the 3-year time frame provided in Title 10, U.S. Code, section 1552(b); however, the Army Board for Correction of Military Records (ABCMR) conducted a substantive review of this case and determined it is in the interest of justice to excuse the applicant's failure to timely file.

2. The applicant states he signed a contract on 8 June 2010 for 6 years for a \$15,000 bonus. The payment installments were to be 50%, 20%, and 30%. He never received the final 30% (\$4,500). He was eligible for payment effective 22 August 2016, and he was commissioned on 7 October 2016. He believes he never received payment due to becoming an officer. The readiness noncommissioned officer (NCO) did not know how to process the request and did not believe he was eligible. Once the missing payment was discovered, it was past the 6-year mark and the State could not pay it without the ABCMR's disposition.

3. The applicant provides:

a. His DD Form 4 (Enlistment Document) with Annex X, which shows on 8 June 2010, the applicant enlisted in the Army National Guard (ARNG). He enlisted for 6 years in the [REDACTED]. Annex A (Certificate and Acknowledgment of Service Requirements and Methods of Fulfillment for Individuals Enlisting or Transferring Into

Units of the ARNG upon REFRAD/discharge from Active Army Service) shows the applicant had prior military service and was discharged having no remaining statutory military service obligation. NGB Form 600-7-6-R-E (Annex X) shows the applicant:

(1) Met all enlistment eligibility criteria for the Selected Reserve Incentive Program (SRIP):

- Completed no more than 16 years of total military service upon enlistment in the ARNG
- Qualified and held as primary military occupational specialty (MOS) for which enlisting, and holds the rank and grade of no more than one grade below, the required grade for the position
- Skill Level 10/20/30 is 105% or sourced elements 100%
- Not enlisting for a Title 10 or Title 32 AGR tour or military technician position
- Received an honorable discharge for all periods of prior military service.

(2) Prior Service Enlistment Bonus (PSEB) Details:

- MOS – 18D4P
- Paragraph/Line – 402/07
- UIC – WTPDC0

(3) He enlisted for a PSEB in the amount of \$15,000.00 less taxes for a 6 year enlistment. The first 50 percent would be paid on the effective date of the contract, the second 20 percent would be paid on his third year anniversary and the final 30 percent would be paid on his sixth year anniversary.

b. His Bonus Payment History screenshot lists the following:

- Amount of Next Payment - \$4500.00
- Total Bonus Paid - \$10,500.00

4. A review of the applicant's service record shows:

a. Having had 8 years of prior honorable service in the Regular Army, he enlisted in the [REDACTED] ARNG on 8 June 2010.

b. He entered active duty on 13 April 2014. He was honorably released from active duty training on 7 October 2016. His DD Form 214 (Certificate of Release or Discharge from Active Duty) shows:

(1) Block 11 (Primary Specialty) – 18D4P 2B SF Medical Sergeant

(2) Block 12a (Date Entered Active Duty This Period) – 13 April 2014

(3) Block 12c (Net Active Service This Period) – 2 years 5 months 25 days

(4) Block 12e (Total Prior Inactive Service) – 3 years, 7 months, and 22 days

c. He was appointed as a Reserve commissioned officer and executed an oath of office on 7 October 2016

5. On 13 November 2023, the National Guard Bureau rendered an advisory opinion in the processing of this case. The Chief, Special Actions Branch, opined:

a. The [REDACTED] ARNG admitted that the applicant's appointment did not have any bearing on the reason for non-payment, as the Soldier's final bonus payment was due on 22 August 2016, and he was commissioned on 7 October 2016. The [REDACTED] ARNG was made aware of the applicant's non-payment during a 2021 staff assistance visit, that showed his appointment and a change in military personnel class pushed his payment into monitor fail.

b. It is the recommendation of this office, with the support of the [REDACTED] ARNG that the applicant's PSEB final installment payment of \$4500.00 be paid. The review by the [REDACTED] ARNG of the applicant's claim revealed that the Soldier did not violate the terms of his PSEB contract, and that the Soldier's final payment did process, and that the payment had exceeded the time restraints put in place by the Barring Act, and therefore, the ABCMR process is the only way to correct the Soldier's payment.

6. On 18 April 2024, the advisory opinion was forwarded to the applicant for acknowledgment and/or response. The applicant has not provided a response to date.

7. By regulation (NGR 600-7), under the provisions of Title 37 USC 308i, this incentive is offered to an applicant who is a former enlisted member of an armed force who enlists in the SELRES of an armed force for a period of three or six years in a critical skill designated for such an incentive by the Secretary concerned. Applicant must execute a written agreement to serve as an enlisted member in the SELRES and meet the eligibility criteria for enlistment as a prior service (PS) applicant as prescribed by governing law, DODI, DA, ARNG regulations or as outlined in the current FY SRIP policy.

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 applicant met the terms of his PSEB contract and should have received the third and final installment of the incentive. The Board determined the applicant's record should be corrected to show payment of the final installment of his incentive was approved, and he should be paid the remaining amount he is owed.

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 payment of the final installment of his PSEB was approved. As a result of this correction, he should be paid the remaining amount he is owed.

3/4/2025

X

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 10, U.S. Code, section 1552(b), provides that applications for correction of military records must be filed within 3 years after discovery of the alleged error or injustice. This provision of law also allows the ABCMR to excuse an applicant's failure to timely file within the 3-year statute of limitations if the ABCMR determines it would be in the interest of justice to do so.

2. Under 31 U.S.C. § 3702(b), the Barring Act, jurisdiction to consider claims is limited to those that are filed within six years after they accrue. However, under 31 U.S.C. § 3702(e), upon request of the Secretary concerned, the Secretary of Defense may waive the time limits established by the Barring Act for claims involving a uniformed service member's pay, allowances, or survivor benefits, to allow payment of the claim up to \$25,000.00.

3. National Guard Regulation 600-7 (SRIP) governs incentive policies, procedures, and eligibility criteria for persons entering into an incentive agreement at the time of enlistment, affiliation, reenlistment, extension, commission or appointment into the National Guard, on or after the effective date of this regulation.

a. Paragraph 1-24 (Termination of incentives) states:

(1) Incentive eligibility and entitlement will stop when any of the termination reasons listed in paragraph 1-25 (Termination with recoupment of incentives) or the applicable program chapters and sections apply. The Soldier will not be eligible to receive any further incentive payments, except for Service performed before the termination date. Termination of an incentive will not affect a Soldier's responsibility to serve their current statutory or contractual Service commitment.

(2) The unit commander or authorized unit representative will initiate termination procedures and inform the State Incentive Manager when a Soldier is not in compliance with the incentive terms and conditions.

b. Paragraph 1-25 (Termination with recoupment of incentives) states termination with recoupment will occur if a Soldier:

- Becomes an unsatisfactory participant
- Fails to participate satisfactorily in required training during the entire period of Service agreed to per the written agreement, unless the failure to participate satisfactorily was due to reasons beyond the control of the member (that is, death, injury, illness, or other impairments)
- Fails to become DMOSQ in the MOS for which contracted per the incentive addendum/agreement and within legally prescribed timelines

- Loses MOS qualification due to denial or removal of required security clearance
- Voluntarily moves to a non-bonus unit or MOS unless assigned as a 09S or 09R
- Separates from a Selected Reserve unit of the National Guard for any reason
- Separates from the National Guard due to death, injury, illness, or other impairment that is the result of the Soldier's own misconduct
- Incentive contracts signed before or after the execution date of enlistment, reenlistment or extension
- Discharged from the National Guard for any reason unless otherwise noted in this regulation or in the current National Guard SRIP policy
- The State Incentive Manager is responsible for initiating recoupment procedures when a Soldier's incentive is terminated from continued eligibility and recoupment is required
- Commanders will refer to the Chief, Incentives Oversight Branch for resolution and consideration of an exception to policy in doubtful cases, in which recoupment would be contrary to personnel policy or other management objectives, against equity or good conscience or contrary to the best interests of the U.S. and clearly in the best interest of the Army National Guard

c. Paragraph 1-27 (National Guard Exceptions to Policy request) states that all ETP will be initiated by the Soldier and routed through their chain of command to the State Incentive Manager and the State G-1. The State Level will evaluate all ETP received on a case-by-case basis and route them to the appropriate level for final determination. Once a final determination has been made at the established level, the case will be considered to have met the exhaustion of administrative remedies requirements. The Soldier may then file an application to the Army Board for Correction of Military Records if there is an alleged error or injustice still existing.

d. Chapter 2 (PSEB) states under the provisions of Title 37 USC 308i, this incentive is offered to an applicant who is a former enlisted member of an armed force who enlists in the SELRES of an armed force for a period of three or six years in a critical skill designated for such an incentive by the Secretary concerned. Applicant must execute a written agreement to serve as an enlisted member in the SELRES and meet the eligibility criteria for enlistment as a prior service (PS) applicant as prescribed by governing law, DODI, DA, ARNG regulations or as outlined in the current FY SRIP policy.

//NOTHING FOLLOWS//