

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 5 January 2024

DOCKET NUMBER: AR20230003943

APPLICANT REQUESTS: record correction to reflect eligibility to receive Blended Retirement System (BRS) Continuation Pay (CP) pursuant to the opt-in.

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), 24 March 2023

FACTS:

1. The applicant did not file within the 3-year time frame provided in Title 10, U.S. Code (USC), 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 in pertinent part that he previously served in the U.S. Marine Corps Reserve for 6 years prior to enlisting in the Georgia Army National Guard (GAARNG). He contests that his Leave and Earnings Statement reflects 6 May 2006 as his pay date. After completing basic combat training, he elected to opt-in to the BRS on 25 May 2018, with the intention of requesting CP. However, at that time his unit readiness staff was unaware of how to process a CP request. He notes that he has completed more than 12 years of service but hopes that this request will be considered favorably because the CP incentive served as the primary reason why he elected to opt-into the BRS.

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

a. National Guard Bureau Form 23A (ARNG Current Annual Statement) shows the applicant enlisted in the U.S. Marine Corps Reserve on 11 August 1995. He entered active duty for training in the U.S. Marine Corps Reserve on 17 May 1996. He was honorably released from active duty for training on 14 August 1997. He was released from the U.S. Marine Corps Reserve on 21 May 2001.

b. On 17 February 2012, the applicant enlisted in the ARNG for 6 years.

- c. On 21 February 2017, the applicant extended his enlistment for 6 years.
 - d. On 7 November 2018, the GAARNG issued Orders Number 311-141 announcing the applicant's promotion to the rank/grade of staff sergeant (SSG)/E-6, effective 17 August 2018.
 - e. On 23 March 2022, the applicant extended his enlistment for 2 years.
 - f. On 28 March 2022, the GAARNG issued Orders Number 1740535 announcing the applicant's promotion to the rank/grade of sergeant first class (SFC)/E-7, effective 23 March 2022.
4. The applicant provides a Request for Continuation Pay (Blended Retirement System) dated 24 March 2023 reflective of the applicant's request for BRS CP at a rate of 4 times his monthly basic pay. The applicant agreed to 4 years of additional obligated service. This document reflects endorsement by the certifying official and the approval authority.
 5. On 16 August 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 disapproval of the applicant's request noting that he elected to opt-in to the BRS after the eligibility date. Approval of CP requests and BRS opt-in must occur prior to the anniversary of a Soldier's 12th year of service. The applicant's enrollment into BRS occurred on 15 May 2018, which was after the 12th year anniversary date on 6 May 2018. The anniversary end date was calculated from the Pay Entry Basic Date (PEBD) of 6 May 2006.
 6. On 18 August 2023, the applicant was provided with a copy of the advisory opinion and afforded 15 days to provide comments. As of 20 December 2023, the applicant had not responded.
 7. A review of the applicant's available personnel data reflects a PEBD of 6 May 2006.

BOARD DISCUSSION:

After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was warranted. The Board carefully considered the applicant's contentions, the military record, and applicable US Code. The Board considered the applicant's service and noted that he had previously served in the U.S. Marine Corps Reserve for 6 years prior to enlisting in the Georgia Army National Guard (GAARNG). The Board noted pay data reflecting his Pay Entry Basic Date (PEBD) of 6 May 2006. The Board determined there was sufficient evidence to correct the applicant's records to show that he was in receipt of an approved CP and BRS request prior to the completion of 12 years of service as computed. The Board agreed to approve the applicant's entitlement to CP and that it was approved and received in a timely manner. After due consideration of the case, Board found that a recommendation for relief was warranted.

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 that the evidence presented was 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 to show the applicant was in receipt of Blended Retirement System (BRS) Continuation Pay (CP) prior to 12 years of service and that it was approved and processed in a timely manner.

[REDACTED]

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, USC, 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. Title 37 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

//NOTHING FOLLOWS//