

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 16 January 2024

DOCKET NUMBER: AR20230004628

APPLICANT REQUESTS: in effect, reimbursement of \$1,200 erroneously deducted from his Army pay for the Montgomery GI Bill.

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

- DD Form 149 (Application for Correction of Military Record)
- U.S. Navy DD Form 214 (Certificate of Release or Discharge from Active Duty), March 2014 to August 2021
- DD Form 3866 (Montgomery GI Bill of 1984 (MGIB) Basic Enrollment)

FACTS:

1. The applicant states he was in the Navy from 2014-2021 and paid for the MGIB and he has the document to prove it. He changed branches to the Army in 2021 and was charged for the MGIB an additional time despite him declining it. He believes this is unjust because he was charged twice for something he can only receive once. This error was caused by human error when going through processing with the Army.

2. Review of the applicant's service records shows:

a. Although his initial enlistment in the U.S. Navy (USN) is not available for review, he provides DD Form 3266, Montgomery GI Bill Act of 1984 – Basic Enrollment, signed on 18 March 2014, documenting his understanding about this eligibility for benefits under the Montgomery GI Bill Act of 1984 (MGIB). He agreed to have his pay reduced by \$100 per month for 12 months.

b. The applicant's DD Form 214 shows he enlisted in the USN on served 5 March 2014 and he was honorably discharged from the USN on 9 August 2021, after completing over 7 years and 5 months of active service.

c. Although his enlistment contract in the Army is not available, a DA Form 3286 (Statement of Understanding), signed on 1 April 2021 shows he enlisted in the Regular Army for 3 years and 26 weeks, for training in military occupational specialty 11B, Infantryman on or about 10 August 2021.

3. The U.S. Army Human Resources Command (HRC) provided an advisory opinion on 14 November 2023 in the processing of this case. An HRC official opined the following:

a. Recommend approval of [Applicant's] request for a refund of the \$1200 payroll reduction for the Montgomery GI Bill - Active Duty (MGIB-AD). The National Defense Authorization Act of 1985 (Public Law 98-525) amended Title 38, US Code to include the MGIB-AD to Service Members (SM) who entered Active Duty 1 July 1985 or later. The MGIB-AD is a Service Member's benefit, which required SMs who entered service prior to 5 January 2023 to enroll within 3 working days of active duty and agree to a reduction in pay of \$1200 (\$100 each month for the first 12 months). Please know that SMs who enter service on or after 5 January 2023 have up to 270 days to enroll in MGIB-AD. SMs must complete the initial term of service with a fully honorable characterization of service and may not enroll in MGIB-AD more than once.

b. The applicant enlisted in the U.S. Navy on 5 March 2014 and was discharged on 9 August 2021 with an honorable discharge. On 18 March 2014, he enrolled in the MGIB-AD by signing the DD Form 2366 (Montgomery GI Bill Act of 1984, Basic Enrollment). During his initial enlistment with the U.S. Navy and upon enrolling in MGIB-AD, the applicant had his pay reduced by \$100 a month for 12 months by the Defense Finance and Accounting Service (DFAS) for MGIB-AD. HRC office obtained the applicant's Leave and Earning Statement (LES) documents for the period from April 2014 to March 2015 from DFAS, which reflect a monthly \$100 pay reduction from his pay each month for a total of \$1200 for the MGIB-AD (see enclosure one for his U.S. Navy LES documents provided by DFAS).

c. The applicant enlisted in the U.S. Army on 10 August 2021. Due to his prior-service in the U.S. Navy, he was ineligible for the MGIB-AD and should have completed a DD Form 2366 to decline the MGIB-AD. The DD Form 2366 should have been filed in his records, but currently is not. For reasons unknown, DFAS reduced the applicant's pay again by \$1,200 for MGIB-AD starting in September 2021. HRC obtained his LES documents for the period from September 2021 to August 2022 from DFAS, which reflect a monthly \$100 pay reduction from his pay each month for a total of \$1,200 for the MGIB-AD (see enclosure two for his U.S. Army LES documents provided by DFAS). DFAS should not have reduced his pay by \$1,200 for MGIB-AD a second time. Therefore, this specific \$1,200 reduction in pay should be returned to the applicant, less taxes. Because HRC cannot direct DFAS to return the \$1,200 to the applicant, HRC requests any granted relief involve a direction to the Army liaison within DFAS to correct the applicant's records.

d. if the Board grants relief, the refund of monies will not equal what the applicant paid into the program because his contributions were made with pre-tax funds. The applicant will have to coordinate with the DFAS and his local pay office to obtain a refund of any monies he paid into the MGIB-AD program while in the U.S. Army.

Additionally, he will have to work with his Personnel Office (i.e., Battalion S1) to complete and upload a DD Form 2366 (MGIB-AD Selection) showing that he rejected the MGIB-AD and ensure a copy is uploaded into his Interactive Personnel Electronic Records Management System (iPERMS) official military record. Again, HRC requests any granted relief for the U.S. Army's erroneous reduction in pay involve a direction to the Army liaison with DFAS to correct the applicant's record. This office cannot assist with either of the above two tasks because we lack the requisite authority to make or enforce the correction.

4. The applicant was provided with a copy of this advisory opinion to give him an opportunity to submit additional comments. The applicant did not respond.

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 applicant's contentions, the military record, and regulatory guidance were carefully considered. The evidence shows the applicant enlisted in the U.S. Navy (USN) on 5 March 2014 and was honorably discharged on 9 August 2021. On 18 March 2014, he enrolled in the MGIB-AD by signing DD Form 2366 (MGIB Act of 1984, Basic Enrollment). During his initial enlistment with the USN and upon enrolling in MGIB-AD, he had his pay reduced by \$100 a month for 12 months by DFAS for MGIB-AD. The applicant enlisted in the Regular Army on 10 August 2021. Due to his prior-service in the USN, he was ineligible for the MGIB-AD and should have completed a DD Form 2366 to decline the MGIB-AD. The DD Form 2366 should have been filed in his records, but currently is not. For reasons unknown, DFAS reduced the applicant's pay again by \$1,200 for MGIB-AD starting in September 2021. DFAS should not have reduced his pay by \$1,200 for MGIB-AD a second time. The Board agreed with the advisory official's determination that an error has occurred and that this specific \$1,200 reduction in pay should be returned to the applicant, less taxes.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

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:	:	:	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 the applicant timely signed a DD Form 2366 (MGIB-AD Selection) showing that he declined the MGIB-AD, upon his Army enlistment
- showing the applicant's unit/HR Office uploaded a copy of this DD Form 2366 into his Interactive Personnel Electronic Records Management System (iPERMS) official military record
- showing the applicant's unit/HR Office timely submitted the signed DD Form 2366 to the local Finance Office for reimbursement of his \$1,200

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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.

REFERENCES:

Public Law 98-525, 19 October 1984, was enacted by the 98th Congress to authorize appropriations for military functions of the Department of Defense and to prescribe military personnel levels for the Department of Defense for fiscal year 1985, to revise

and improve defense procurement, compensation, and management programs, to establish new defense educational assistance programs, to authorize appropriations for national security programs of the Department of Energy, and for other purposes. The National Defense Authorization Act of 1985 (Public Law 98-525) amended Title 38, US Code to include the MGIB-AD to Service Members who entered Active Duty 1 July 1985 or later. The MGIB-AD is a Service Member's benefit, which required Service Members who entered service prior to 5 January 2023 to enroll within 3 working days of active duty and agree to a reduction in pay of \$1200 (\$100 each month for the first 12 months). Service Members who enter service on or after 5 January 2023 have up to 270 days to enroll in MGIB-AD. Service Members must complete the initial term of service with a fully honorable characterization of service and may not enroll in MGIB-AD more than once.

//NOTHING FOLLOWS//