

IN THE CASE OF: [REDACTED]

BOARD DATE: 18 January 2024

DOCKET NUMBER: AR20230004630

APPLICANT REQUESTS: in effect, an exception to policy for payment of his Continuation Pay bonus in the Army National Guard (ARNG) for opting into the Blended Retirement System (BRS) even though his paperwork was processed after his 12th year anniversary.

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

- DD Form 149 (Application for Correction of Military Record)
- Statement
- Request for Exception to Policy, 22 March 2023
- Continuation Pay Form, 15 November 2021
- November 2021 Leave and Earnings Statement
- Army National Guard Current Annual Statement, 22 December 2021
- Oath of Extension of Enlistment or Reenlistment, 17 November 2021

FACTS:

1. The applicant states the amount requested was sent for processing four times. The monthly basic pay form was supposed to be 2.5 times the monthly basic pay. On 4 November 2021, his Battalion S-1 section sent him a pre-populated Continuation Pay (Blended Retirement System) request form. He was told to sign the form and return it for processing. He received no guidance of what was supposed to go on this form. He was an active Guard, and the form was supposed to have 2.5 the monthly basic pay. Instead, it listed four times the basic pay. The form was submitted with enough time for processing but had the incorrect multiplier on it and was returned for correction of errors. By the time the error was discovered, he had surpassed the 12-year mark. He has tried several possible avenues to resolve the discrepancy with no success. At no point in this process did anyone try to mislead or provide false information. The S-1 personnel received poor guidance on the CP process. He is not pointing blame; he believes this was an administrative error. The money received from this CP is intended for his children's college fund.

2. In a statement, the applicant states he received an email on 3 November 2021 from his Battalion S1 section indicating he was eligible for CP. The email included his

Request for Continuation Pay form which they had already prepopulated all the information. He was instructed just to sign and return, so he did not manipulate the form. The form was signed and returned to the Battalion S1 section the very next day (4 November 2021). At no point in time was he made aware that the information on the Continuation Pay form was incorrect until after the cutoff time for submission, nor did he try to mislead anyone. The monies received from the BRS Continuation Pay is intended for children's college fund, this is reason I'm pushing so hard for it.

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

a. He enlisted in the [REDACTED] Army National Guard ([REDACTED] ARNG) for 1 year on 23 December 2009. His DIEMS (Date Entered Military Service) and PEBD (Pay Entry Basic Date) were established as 23 December 2009.

b. He again enlisted in the [REDACTED] ARNG for 7 years and 48 weeks on 25 January 2010. He completed training and was awarded military occupational specialty 88M, Motor Transport Operator.

c. He extended multiple times between January 2015 and October 2023, including extension for 5 years on 6 October 2017, extension for 1 year, 9 months, and 14 days on 17 November 2021 and extension for 4 years, 2 months, and 15 days on 26 October 2023.

d. The applicant reached his 12th year of service on 23 December 2021.

4. The applicant provides:

a. An exception to policy request, signed by the Deputy Chief of Staff, Personnel, [REDACTED] ARNG in which he requests that the BRS-CP request be approved for the applicant. The applicant elected to enroll in the BRS. He reenlisted on 17 November 2021 to qualify for the Continuation Pay. The Continuation Pay request was signed by the applicant on 4 November 2021, prior to reaching 12 years' time in service. The request is required to be signed by an O-6 or above. The request was signed by an O-6 on 14 December 2021. It was then sent to the State Incentive Manager for a control number and further processing. Upon review, it was identified that the applicant elected to receive 4 times the base pay. Since he is AGR (Active Guard Reserve), he had to elect 2.5. The request was sent back to the unit for corrections. It was not sent back to the Incentive Manager until June 2022, after the applicant reached 12 years' time in service. Due to this, the applicant's request was denied. This was no fault of the applicant. It is requested that the denial be overturned, and the applicant be paid the Continuation Pay. He has otherwise satisfied the requirements set forth in the contract. Supporting documentation is attached.

b. Continuation Pay – Blended Retirement System form, signed by the applicant on 15 November 2021 in which he requested the amount of payment to be 4 times the monthly basic pay for his current pay grade and years of service as listed on the monthly basic pay table provided by the Defense Finance and Accounting Service (DFAS) in effect on the date in block 8 (block 7 if digitally signed). He agreed to an Additional Obligated Service(AOS) of 4 years commencing from the date in block 8 (15 November 2021). He asked for his CP to be paid in one single lump sum payment.

5. On 26 October 2023, the National Guard Bureau (NGB) provided an advisory opinion in the processing of this case. An NGB advisory official restated the applicant's request that his Continuation Pay bonus be paid for opting into the Blended Retirement System even though his paperwork was processed after his 12th year anniversary because the delay was caused by negligence of his command and was no fault of his own. The advisory official recommended approval:

a. The applicant enlisted in the ■■■ ARNG in 2009 and extended his enlistment for four years prior to his 12th year anniversary, which entitled him to Continuation Pay since he opted into the BRS. He completed his paperwork in November 2021, which was sent through his chain of command for approval. However, the applicant claims that due to no fault of his own, his packet was processed incorrectly by his unit and was returned for corrections. When the correction was made, it was past his 12th year anniversary. The applicant is requesting back pay of his Continuation Pay bonus.

b. The applicant's records show that he reenlisted on 17 November 2021 to qualify for the Continuation Pay. The Continuation Pay request was signed by the applicant on 4 November 2021, prior to reaching 12 years of time in service. The request is required to be signed by an O6/COL or above. The request was signed by a COL on 14 December 2021. It was then sent to the State Incentive Manager for a control number and further processing. Upon review, it was identified that the applicant elected to receive 4 times the base pay. Since he is AGR, he had to elect 2.5 times his base pay. The request was sent back to the unit for corrections. It was not sent back to the Incentive Manager until June 2022, which was after the applicant reached 12 years of time in service. Due to this, his for BRS-CP request was denied.

c. On 27 January 2017, the Deputy Secretary of Defense implemented guidance for the BRS for uniformed services, authorized by Public Law 114-92 (National Defense Authorization Act for Fiscal Year 2016). The BRS is a one-time payout available to Active Duty, ARNG, and Reserve Service Members covered under the BRS with between 8 and 12 years of service who can enter into an agreement to perform additional obligated service. BRS includes a Continuation Pay provision to encourage Service Members to continue serving. Continuation pay is a mid-career bonus payment given in exchange for an agreement to serve a specific number of years and is a direct cash payout, like a bonus. Per the BRS Continuation Pay Implementation guidance, all

Soldiers may submit their continuation pay request no earlier than 180 days prior to completing their 12th year of service, based on their pay entry basic date. Soldiers should submit their continuation pay request no later than 30 days prior to completing their 12th year of service.

d. Based on the applicant's claims and the documents he provided in support of his request, there was a clear mishandling of the paperwork by the unit. Due to no fault of his own, the applicant did not get his BRS-CP paperwork processed correctly and on time. The State realizes the mistake and fully supports the applicant's request.

e. For these reasons, it is the recommendation of this office that the applicant's request be approved. Based on the applicant's records, he submitted his Continuation Pay Request during the timeframe outlined in the BRS CP Implementation guidance, but because of an error in the paperwork that was at no fault of the applicant, the paperwork was not processed on time. It is recommended that the applicant's CP be processed retroactively.

f. The Army National Guard Incentives Branch did not provide input for this recommendation. The [REDACTED] ARNG concurs with this recommendation.

6. The applicant received a copy of this advisory opinion and responded with concurrence.

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 found that, through no fault of his own, the applicant's request for BRS CP was not submitted in a timely manner. The Board concurred with the conclusion of the advisory official that the evidence supports relief in this case. The Board determined the applicant's record should be corrected to show his request for BRS CP was submitted in a timely manner prior to completing of his 12th year of service.

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 his request for BRS CP was submitted in a timely manner prior to completing his 12th year of service. The applicant should be paid any monies he is due as a result of this correction.

4/15/2024

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:

On 27 January 2017, the Deputy Secretary of Defense implemented guidance for the Blended Retirement System (BRS) for uniformed services, authorized by Public Law 114-92 (National Defense Authorization Act for Fiscal Year 2016). The BRS is a one-time payout available to Active Duty, Army National Guard, and Reserve Service Members covered under the BRS with between 8 and 12 years of service who can enter into an agreement to perform additional obligated service. BRS includes a Continuation Pay provision to encourage Service Members to continue serving. Continuation pay is a mid-career bonus payment given in exchange for an agreement to serve a specific number of years and is a direct cash payout, like a bonus. Per the BRS Continuation

Pay Implementation guidance, all Soldiers may submit their continuation pay request no earlier than 180 days prior to completing their 12th year of service, based on their pay entry basic date. Soldiers should submit their continuation pay request no later than 30 days prior to completing their 12th year of service.

//NOTHING FOLLOWS//