

IN THE CASE OF: ██████████

BOARD DATE: 14 February 2024

DOCKET NUMBER: AR20230004992

APPLICANT REQUESTS: Exception to Policy (ETP) to retroactively receive Health Professions Officer Incentive Pay (HPO IP) for the period of July 2019 through September 2022.

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

- DD Form 149 (Application for Correction of Military Record)
- Memorandum for Surgeon General of the Army, Human Resources Army Medical Department (AMEDD) Special Pay Branch, Subject: Request for HPO IP, 6 April 2017
- National Capital Consortium Fellowship Training Certificate
- Application for Medical Privileges/Medical Staff Appointment, 14 August 2019
- Application for Medical Privileges/Medical Staff Appointment, 6 July 2020
- Application for Medical Privileges/Medical Staff Appointment, 13 June 2022
- Memorandum for Surgeon General of the Army, Human Resources AMEDD Special Pay Branch, Subject: Request for HPO IP, 21 April 2023
- Medical Privileges Verification
- Personal statement of military compensation

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 effect, she requests an ETP to retroactively receive HPO IP for the period of July 2019 through September 2022. She completed her Gynecologic Oncology Fellowship in 2019 and should be entitled to the additional subspecialty pay. The contract was not submitted for processing until April 2023.
3. A review of the applicant's service record shows:

a. On 6 May 2007, the applicant executed her oath of office and was appointed as a Reserve commissioned officer.

b. On 13 June 2007, Orders Number C-06-718750, issued by the U.S. Army Human Resources Command (HRC), the applicant was assigned to the U.S. Army Reserve Control Group (Officer Active Duty Obligor (OADO)), effective 6 May 2007.

c. On 5 April 2011, Orders Number A-04-107106, issued by HRC, the applicant was ordered to active duty to fulfill an active-duty requirement in a voluntary indefinite status, effective 8 June 2011.

d. On 17 May 2015, the applicant was approved to receive Medical Additional Special Pay (MASP), effective 1 July 2015, for 1-year continuous active-duty service in the amount of \$15,000.00. The agreement would be terminated upon entry into an internship, initial residency training, or separation from active duty.

e. U.S. Army Medical Department training certificate shows the applicant completed Obstetrics and Gynecology Residency at Madigan Army Medical Center during the period of 1 July 2011 through 30 June 2015.

f. On 11 April 2016, the applicant was approved to receive MASP, effective 1 July 2016 for 1-year continuous active duty service in the amount of 15,000.00. The agreement would be terminated upon entry into an internship, initial residency training, or separation from active duty.

g. On 2 August 2016, the applicant was approved to receive Medical Corps Incentive Specialty Pay in the specialty of Obstetrics/Gynecology for a 1-year of continuous active duty service in the amount of \$31,000.00.

h. On 6 April 2017, the applicant was approved to received HPO Board Certification Pay for 1-year retainability on active duty beginning 1 July 2017 through 23 January 2017 [sic] at a rate of \$6,000.00 per year rate to be paid on a monthly basis.

i. On 11 November 2016, the applicant was notified she was a diplomate of the American Board of Obstetrics and Gynecology, effective through 31 December 2017.

j. The applicant was certified in Obstetrics and Gynecology for the period of 11 November 2016 through 31 December 2022. She was also certified in Gynecologic Oncology Subspecialty during the period of 24 April 2021 through 31 December 2022.

4. The applicant provides:

a. Memorandum for Surgeon General of the Army, Human Resources AMEDD Special Pay Branch, Subject: Request for HPO IP dated 6 April 2017 states with 1-year retainability on active duty to activate the agreement beginning on the effective date and is automatically continued as long as all conditions of the agreement are met. In the specialty the Obstetrics/Gynecology – Obstetrician and Gynecologist the applicant was licensed until 31 January 2018. The Army agreed to pay HPO IP at the rate of \$54,000.00 per year to be prorated on a monthly basis. Any previous IP would be stopped, and any overlapping payments would be adjusted and recouped as necessary. This memorandum was not endorsed by the senior commander.

b. National Capital Consortium Fellowship training certificate shows the applicant completed the Fellowship training in Gynecologic Oncology during the period of 1 July 2015 through 30 June 2019.

c. The application for clinical privileges/medical staff appointment shows the applicant was granted privileges effective 14 August 2019 through 6 July 2020 at Womack Army Medical Center (WAMC) as an Obstetrician and Gynecologist.

d. The application for clinical privileges/medical staff appointment shows the applicant was granted privileges effective 6 July 2020 through 13 June 2022 at WAMC as an Obstetrician and Gynecologist.

e. The application for clinical privileges/medical staff appointment shows the applicant was granted privileges effective 13 June 2022 through 12 June 2023 at WAMC as an Obstetrician and Gynecologist.

f. Memorandum for Surgeon General of the Army, Human Resources AMEDD Special Pay Branch, Subject: Request for HPO IP dated 21 April 2023 states with 1-year retainability on active duty to activate the agreement beginning on the effective date and is automatically continued as long as all conditions of the agreement are met. In the specialty the Obstetrics/Gynecology – Obstetrician and Gynecologist the applicant was licensed until 31 January 2024. The Army agreed to pay HPO IP at the rate of \$59,000.00 per year to be prorated on a monthly basis. Any previous IP would be stopped, and any overlapping payments would be adjusted and recouped as necessary. The memorandum was not endorsed by the senior commander.

g. WAMC letter which stated the applicant was granted medical privileges in Obstetrics and Gynecology during the period of 4 July 2019 through 12 June 2023.

h. Personal statement of military compensation shows the applicant received \$60,000.00 in special pay and bonuses at a rate of \$5,000.00.

5. On 20 December 2023, in the processing of this case, the Office of the Surgeon General provided an advisory opinion regarding the applicant's request for retroactive HPO IP, effective 1 July 2019. The advisory official stated in review of the application and supporting documentation the applicant was ineligible to receive incentives beginning 1 July 2019. However, the applicant is eligible to receive HPO IP, effective 1 October 2019. She is eligible to receive HPO IP at the \$59,000.00 per year rate for the period of 1 October 2019 through 30 September 2022 in the amount of \$177,000.00. The exact arrears payment to be determined by the Defense Finance Accounting Service.

6. On 27 December 2023, the applicant responded to the advisory official, she stated she received HPO IP at the \$54,000.00 per year rate until June 2023 when she received back pay for fiscal year 2022 through 2023 for the corrected amount. Being the advisory opinion stated she was eligible to receive HPO IP at the \$59,000.00 per year rate for the period of 1 October 2019 through 30 September 2022 in the amount of \$177,000.00. She should receive the difference of \$5,000.00 per year in the amount of \$15,000.00.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that partial relief was warranted. The Board carefully considered the applicant's record of service, documents submitted in support of the petition and executed a comprehensive and standard review based on law, policy and regulation. Upon review of the applicant's petition, available military records and the Office of the Surgeon General – Special Pay Branch Human Resources -, G-1 advisory opinion, the Board concurred with the advising official finding the applicant is ineligible to receive incentives on her requested dates, however, the applicant was eligible to receive HOP IP with an effective date of 1 October 2019

2. The Board noted, the opine found the applicant is eligible to receive the HOP IP at the \$59,000/year rate for the time period 1 October 2019 – 30 September 2022 in the amount of \$177,000. In addition, the applicant should receive the difference of \$5,000.00 per year in the amount of \$15,000.00. The Board agreed the exact arrears payment should be recommended by DFAS-IN. Based on this opine, the Board granted partial relief.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

: : : GRANT FULL RELIEF

█ █ █ GRANT PARTIAL RELIEF

: : : GRANT FORMAL HEARING

: : : DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

1. The Board determined the evidence presented is sufficient to warrant a recommendation for partial relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected to show the applicant is authorized an exception to policy (ETP) to retroactively receive Health Professions Officer Incentive Pay (HPO IP) for the period of 1 October 2019 – 30 September 2022 in the amount of \$177,000. The applicant should also receive the difference of \$5,000.00 per year in the amount of \$15,000.00. The exact arrears payment to be determined by DFAS-IN.

2. The Board further determined the evidence presented is insufficient to warrant a portion of the requested relief. As a result, the Board recommends denial of so much of the application that pertains to an exception to policy (ETP) to retroactively receive Health Professions Officer Incentive Pay (HPO IP) for the period of July 2019 through September 2022.

3/29/2024

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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, 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 335 (Special bonus and incentive pay authorities for officers in health professions), (b) Health Professions Incentive Pay. The Secretary concerned may pay incentive pay under this section to an officer in a regular or Reserve component of a uniformed service who: (1) is entitled to basic pay under section 204 of this title or compensation under section 206 of this title; and (2) is serving on active duty or in an active status in a designated health profession specialty or skill. (e) (Maximum Amount and Method of Payment), (1) Maximum amount. The Secretary concerned shall determine the amounts of a bonus or incentive pay to be paid under this section, except that (D) health professions incentive pay under subsection (b) may be paid monthly and may not exceed, in any 12-month period; (i) \$100,000.00 for medical officers and dental officers; and (ii) \$15,000.00 for officers in other health professions.
3. Department of Defense Financial Management Regulation 7000.14, chapter five, table 5-4 (Medical Corps Incentive Pay) shows a fellowship trained Obstetrics and Gynecology physician is entitled to HPO IP at a rate of \$59,000.00 per year, prorated monthly.

//NOTHING FOLLOWS//