

IN THE CASE OF: ██████████

BOARD DATE: 8 February 2024

DOCKET NUMBER: AR20230005150

APPLICANT REQUESTS: correction of his record to show he is eligible to be paid Continuation Pay Blended Retirement System (CP BRS).

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

- DD Form 149 (Application for Correction of Military Record)
- Office of the Assistant Secretary Manpower and Reserve Affairs Memorandum, Subject: Blended Retirement System (BRS) Continuation Pay (CP) – Calendar Year 2022 (CY22)
- Leave and Earnings Statement (LES) period covered 1 through 31 March 2023
- Request for CP BRS

FACTS:

1. The applicant states in pertinent part, if he had known about the CP BRS benefit and had access to qualified, knowledgeable guidance he would have been able to submit his request for CP BRS in accordance with the policy guidelines. However, between two active duty installations, he could only find one person who knew about the program and how to apply for the CP BRS. Unfortunately, he had to wait for her return before he could get any assistance and by that time, he had already begun his 12th-year of service. The Headquarters Department of the Army G-1 CP Program Manager is aware of the issue with the difficulty Soldiers have to find the properly trained and knowledgeable personnel to assist them with the BRS CP process, which they are working on.

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

a. On 14 May 2010, the applicant completed his oath of office and was appointed as a Reserve commissioned officer in the rank/grade of second lieutenant (2LT)/O-1.

b. On 18 October 2010, the applicant completed his oath of office and was appointed as a Regular Army commissioned officer in the rank/grade of 2LT/O1.

c. The applicant's Officer Record Brief (ORB) shows his Pay Entry Base Date (PEBD) as 14 May 2010. The applicant obtained 12-years of service based on his PEBD on 14 May 2022. The ORB also shows he was promoted to the rank/grade of major (MAJ)/O-4 on 1 September 2021.

3. The applicant provides:

a. Office of the Assistance Secretary Manpower and Reserve Affairs Memorandum, Subject: BRS CP – CY22 states it applies to Regular Army (RA), Army National Guard/Army National Guard of the United States and the U.S. Army Reserve Soldiers covered under the BRS. For RA and Active Guard/Reserve Soldiers to be eligible for BRS CP they must be covered under the BRS, between 10 and no more than 12 years of service as computed from the PEBD. If the Soldier agrees to service 4-years of additional service in the component in which they were serving at the time BRS CP was requested.

b. LES shows for the period of 1 through 31 March 2023 the applicant has a pay date of 14 May 2010 and has 12-years of service at the time and his retirement plan is the BRS.

c. Request for CP BRS shows he agreed to 4-years of continued service in the RA to be paid 2.5 time of his monthly basic pay for the pay grade of O-4 and years of service at the time of his request. The certifying official signed the request on 7 April 2023 and the approval authority signed the request on 13 April 2023.

4. On 28 September 2023, in the processing of this case the Office of the Deputy Chief of Staff G1, provided an advisory opinion regarding the applicant's request for BRS CP. The advisory official stated it was recommended the applicant's request be approved in the interest of fairness and equity. The applicant was not provided timely and accurate guidance regarding the BRS CP application process prior to his 12th year of service, otherwise he would have submitted the completed request for BRS CP within the required timeframe. He did submit a completed request for BRS CP signed on 7 April 2023; however, the end point prior to 12-years of service was on 14 May 2022. His request for BRS CP should be made based on the date he would have otherwise qualified specifically in the pay grade of MAJ/O-4 with 12-years of service on 14 May 2022. Additionally, the control number on the request form needs to be corrected to reflect CP2205001. If the Board grants administrative relief, the payment would be based on the pay grade O-4 with 12-years of service from the 2022 pay scale of \$8,284.50 x 2.5 for a gross entitlement of \$20,711.25.

5. On 29 September 2023, the Army Review Boards Agency, Case Management Division provided the applicant the advisory opinion for review and comment. He did not respond.

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 did not receive timely and accurate guidance regarding the BRS CP application process and as a result submitted his application after he had completed 12 years of service. The Board determined the record should be corrected to show he submitted his BRS CP application prior to completing his 12th year of service.

BOARD VOTE:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
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█	█	█	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 records of the individual concerned be corrected to show he submitted his BRS CP application prior to completing his 12th year of service. He should be paid any monies he is owed as a result of this correction.

6/3/2024

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CHAIRPERSON

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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:

1. Public Law 114-92, National Defense Authorization Action (NDAA) for Fiscal Year (FY 2016, section 634 (CP for Full Thrift Savings Plan (TSP) Member with 12-Years of Service), (a) CP, the Secretary concerned shall make a payment of CP to each full TSP member of the uniformed services under the jurisdiction of the Secretary who:

- completes 12 years of service; and
- enters into an agreement with the Secretary to serve for an additional
- 4-years of obligated service

a. Amount, the amount of CP payable to a full TSP member under subsection (a) shall be the amount that is equal to 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; plus at the discretion of the Secretary concerned, the monthly basic pay of the member at 12-years of service multiplied by such number of months (not to exceed 13-months) as the Secretary concerned shall specify in the agreement of the member under subsection (a)

b. Timing of Payment, the Secretary concerned shall pay CP under subsection (a) to a full TSP member when the member completes 12 years of service. If the Secretary concerned also provides CP under subsection (c) to the member, that CP shall be provided when the member completes 12 years of service.

2. Title 37, United States Code, section 356 (CP) states:

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 Active Guard/Reserve 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.

c. 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.

3. Deputy Secretary of Defense Memorandum dated 27 January 2017, Subject: Implementation of the BRS, implements guidance for the BRS for the Uniformed Services, which was authorized in Public Law 114-92 section 631 through 635 of the National Defense Authorization Act (NDAA) for Fiscal Year 2016. Members of the Uniformed Service are covered under the provisions of the BRS who served in a Uniformed Service for fewer than 12-years as calculated from their PEBD.

4. Army Regulation (AR) 637-1 (Army Compensation and Entitlements Policy), provides Department of the Army (DA) policies for entitlements and collections of pay and allowances for active duty Soldiers. Paragraph 18-26 (Continuation Pay), the BRS provides for CP in exchange for additional service obligation by Soldiers when they reach between the 8 and 12-years point in their career. Soldiers will receive a minimum of 2.5 times base pay for Regular component and .5 times base pay for Reserve components if they commit to a minimum of 3-years of additional service.

//NOTHING FOLLOWS//