

IN THE CASE OF: [REDACTED]

BOARD DATE: 14 March 2024

DOCKET NUMBER: AR20230005665

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

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

- DD Form 149 (Application for Correction of Military Record)
- Self-authored Statement
- Assistance Secretary of the Army Manpower and Reserve Affairs (ASAM&RA) Memorandum, Subject: BRS CP – Calendar Year 2020 (CY20)
- Entitlement to CP Financial Readiness Trainings Milestone Certificate of Completion
- Request for CP (BRS) Form
- Leave and Earnings Statement (LES) for period of 1 through 31 March 2023

FACTS:

1. The applicant states he requests the correction of his record to show he is eligible to be paid CP BRS retroactively to 5 October 2021 prior to obtaining 12-years of service. Due to no fault of his own, the information regarding CP BRS is not adequately being provided to the individual Soldiers who are eligible. He found out about the eligibility after he obtained 13-years of service due to the lack of knowledge and proper training. As CP BRS is still fairly new and leaders across the military are not putting out the information mainly because they do not know themselves and they have no way to track the eligibility. He feels the Soldier should not be punished especially in these economic times.

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

a. On 30 September 2009, the applicant enlisted in the U.S. Army Reserve (USAR) Delayed Entry Program (DEP). He was discharged from the USAR DEP and enlisted in the Regular Army (RA) on 6 October 2009. The applicant had continuous service through reenlistments and extensions.

b. The applicant's Enlisted Record Brief shows:

- Pay Entry Basic Date (PEBD) of 6 October 2009
- Basic Enlisted Service Date of 6 October 2009
- obtained 12-years of service on 6 October 2021
- promoted to the rank/grade of sergeant first class (SFC)/E-7 on 1 June 2020

3. The applicant provides:

a. Office of the Assistance Secretary Manpower and Reserve Affairs Memorandum, Subject: BRS CP – CY20 states it applies to 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 serve 4-years of additional service in the component in which they were serving at the time BRS CP was requested.

b. Certificate of completion which shows the applicant completed the Entitlement to CP Financial Readiness Training Milestone course on 12 April 2023.

c. Request for CP BRS shows he agreed to 4-years of continued service in the RA to be paid 2.5 times his monthly basic pay for the pay grade of E-7 and years of service at the time of his request. The certifying official signed the request on 8 May 2023 and the approval authority signed the request on 21 April 2023. The form is void of a control number.

d. LES shows for the period of 1 through 31 March 2023 the applicant has a pay date of 6 October 2009 and has 13-years of service at the time and his retirement plan is the BRS.

4. On 23 October 2023, in the processing of his case, the Office of the Deputy Chief of Staff, G-1, provided an advisory opinion regarding the applicant's request for retroactive CP BRS. The advisory official stated it was recommended the Board grant the applicant relief in the interest of fairness and equity. The applicant's unit did not provide counseling or notification of the CP BRS entitlement; therefore, he only found out through a MilSuite discussion about his eligibility. The applicant submitted his request for CP BRS on 11 April 2023; however, the end point prior to his 12-years of service was 6 October 2021. His request for BRS CP should be based on the date he would have been otherwise qualified in the pay grade of E-7 with 12-years of service. Additionally, the control number needs to be corrected to reflect CP211100XX.

If the Board should grant the applicant administrative relief, the payment would be based on the pay grade of E-7 with 12-years of service from the 2021 pay scale, $\$4,561.80 \times 2.5 = \$11,404.50$ less 22 percent for federal tax and applicable state tax.

5. On 31 October 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 evidence confirms the applicant was not properly notified of the BRS CP requirements, which led to his late request for the incentive. Based on a preponderance of the evidence, the Board determined the applicant's record should be corrected to show he submitted a timely request for BRS CP, which was approved. He should be paid any monies he is due as a result of this correction.

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 records of the individual concerned be corrected by showing he submitted a timely request for BRS CP, which was approved. He should be paid any monies he is due as a result of this correction.

6/25/2024

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:

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 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//