

IN THE CASE OF: [REDACTED]

BOARD DATE: 18 November 2024

DOCKET NUMBER: AR20230005908

APPLICANT REQUESTS: Exception to Policy (ETP) for Continuation Pay (CP) in the Blended Retirement System (BRS).

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

- DD Form 149 (Application for Correction of Military Record)
- Email Correspondence, re: BRS Transaction, 28 August 2019
- Two Memoranda, Blended Retirement System Continuation Pay - Calendar Year 2022 (CY22) and CY23, 27 January 2022 and 29 March 2023
- Two Requests for Continuation Pay BRS, 3 March 2023 and 10 May 2023
- Defense Finance and Accounting Service (DFAS) Military Leave and Earnings Statement (LES), for the period 1-31 March 2023
- NGB Form 23B (Army National Guard Retirement Points History Statement), 24 April 2023
- Emails Correspondence, re: CY22 Request for Continuation Pay, 4 March 2023 to 10 May 2023

FACTS:

1. The applicant states his original BRS CP request was signed on 3 March 2023 (1 day prior to his 12 years pay entry base date (PEBD)). It was submitted to on 4 March 2023 to a mailbox used as recent as July 2022 to pay out BRS CP to another Active Guard Reserve Soldier. He followed the same instructions and guidance on the CY22 memorandum (CY23 memorandum was not published yet). He followed up through email on 26 April 2023 to the same mailbox, with no response. He then reached out to his state incentives section on 9 May 2023 and was instructed to submit through a difference, which was done on the same day. Corrections went back and forth, and final request form was signed 10 May 2023. The incentives office provided the CY23 policy, which was published on 29 March 2023 and new policy requires digital signatures and the same 8-12 years of service. With a digital signature of 10 May 2023, His is now beyond the 12 years PEBD. However, his original submission was prior to CY23 policy being published and followed the CY22 policy and met the PEBD requirement. He requests consideration or exception regarding the 12 years PEBD since original submission was within the time limit and did not require digital signatures.

2. The applicant provides:

a. An email, 27 August 2019 shows an email from DFAS to the applicant that the blended retirement related action was taken in his pay system on 27 August 2019 for the following reason: Agency Automatic Contributions Started.

b. Two Memoranda, Blended Retirement System Continuation Pay – CY22 and CY23 show information and eligibility regarding the BRS.

c. A Request for CP BRS, signed 3 March 2023 shows in:

- item c: “the amount of payment, in accordance with above policy message, will be 2.5 times the monthly basic pay for his current pay grade and years of service”
- item d: “the applicant agreed to an Additional Obligated Service (AOS) of 4 years commencing from the date in block 8 (3 March 2023)”

d. DFAS LES shows period covered 1-31 March 2023 retirement plan “Blended.”

e. NGB Form 23B, dated 24 April 2023, which shows the applicant has 12 years creditable service for retirement pay.

f. Emails, dated 4 March 2023 and 26 April 2023, which show the applicant emailed the ARNG mailbox confirming and following up on his enrollment in the BRS.

g. Emails, dated 9 May 2023 and 10 May 2023, which show the applicant was told his application had some small mistakes. He corrected the request form. The form must be signed by Common Access Card signatures. An email shows he had a “Concern: Original request form and email traffic was submitted on 4 March 2023, 1 day before I hit 12 years of service, to the incorrect mailbox (NGB). I followed up 04/26 with zero response. It wasn’t until 05/09 when I was provided the TX MBX distro and now going back and forth making all of the corrections.”

h. A Request for CP BRS, signed 10 May 2023, which shows in:

- item c: “the amount of payment, in accordance with above policy message, will be 2.5 times the monthly basic pay for his current pay grade and years of service”
- item d: “the applicant agreed to an Additional Obligated Service (AOS) of 4 years commencing from the date in block 8 (10 May 2023)”

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

a. DD Form 4 (Enlistment/Reenlistment Document Armed forces of the United States) reflects the applicant enlisted in [REDACTED] Army National Guard ([REDACTED] ARNG) on 4 March 2011. His Pay Entry Basic Date (PEBD) is 4 March 2011.

b. DA Form 71 (Oath of Office-Military Personnel) shows the applicant was appointed as a Reserve commissioned officer on 18 August 2022.

c. He remains in the AGR Program.

d. The applicant obtained 12 years of service on 4 March 2023.

4. In the processing of this case, an advisory opinion was received from the Office of the Deputy Chief of Staff, G-1, Program Analyst, Compensation and Entitlements Division, who opined in pertinent part:

a. Based on the response from the U.S. Army Human Resources Command, the applicant opted into BRS on 3 January 2018.

b. The applicant must file the CP portion of his case with the Army Board for Correction of Military Records (ABCMR) to assist with his request for CP to be paid for the original contract that was signed the day prior to his 12 years of service.

c. To request relief for CP, the applicant must do so through the ABCMR online by completing a DD form 149 (Application for Correction of Military Record Under Provision of Title 10, U. S. Code, Section 1442) with all supporting documents.

5. On 14 November 2024, the applicant was provided with a copy of the advisory opinion and given an opportunity to respond.

6. On 14 November 2024, the applicant responded via electronic mail.

a. His original BRS CP request was signed 3 March 2023 (1 day prior to his 12 years PEBD). It was submitted to a mailbox used as recent as July 2022 to pay out BRS CP to another AGR Soldier. He followed the same instructions and guidance on the CY22 memorandum as the CY23 guidance had not been published yet; however, received no response.

b. He then reached out to the incentive section on 9 May 2023 and was instructed to submit through a different mailbox, in which he did the same day. Corrections went back and forth and the form was signed on 10 May 2023. The State provided the CY23 policy guidance on 29 March 2023 which required digital signatures, which then put him beyond his 12 years of service.

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 applicant's PEBD is 4 March 2011. He reached 12 years of service on 4 March 2023. He contends his original BRS CP request was signed 3 March 2023 (1 day prior to his 12 years PEBD). It was submitted to a mailbox used as recent as July 2022 to pay out BRS CP to another AGR Soldier. He followed the same instructions and guidance on the CY22 memorandum as the CY23 guidance had not been published yet; however, received no response. The applicant provides a Request for CP BRS, signed 3 March 2023 requesting payment at 2.5 times the monthly basic pay for his current pay grade and years of service and agreed to an Additional Obligated Service of 4 years commencing from 3 March 2023. The Board accepted the applicant's argument and determined an error and an injustice have occurred. It is clear that administrative errors were committed in the processing of his BRS request. He should not be penalized for these administrative errors. Therefore, the Board determined relief is warranted.

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 the applicant timely submitted his Request for Continuation Pay – Blended Retirement System (CP – BRS) on 3 March 2023
- showing the appropriate office timely received and processed his approved request for CP BRS
- paying the applicant based on the appropriate pay grade in March 2023 from the 2023 pay scale, less applicable federal and state taxes (DFAS determines the exact amount), provided all other criteria is met

11/18/2024

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.

REFERENCE:

Title 37, USC, 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.

//NOTHING FOLLOWS//