

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 23 February 2024

DOCKET NUMBER: AR20230006143

APPLICANT REQUESTS: in effect, exception to Public Law 110-252 to allow him to transfer education benefits under the Post 9/11 Transfer of Education Benefits (TEB) to his daughter ([REDACTED] who had already reached her 21st birthday and was not in the Defense Eligibility Enrollment Reporting System (DEERS) extended eligibility status.

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

- DD Form 149 (Application for Correction of Military Record)
- Birth Certificate, [REDACTED]

FACTS:

1. The applicant states he was not informed that the dependent needed to have benefits transferred prior to her 21st Birthday. At the time, he was informed that dependent education benefits needed to be transferred prior to them being 21, she was already 21.

2. A review of the applicant's service records show:

a. He enlisted in the Regular Army on 24 August 2000. He followed that with a series of reenlistments, the last of which was an indefinite reenlistment on 19 February 2014.

b. The applicant's DD Form 93 (Record of Emergency Data) shows his marital status as married (10 October 2014) with three dependent children:

- [REDACTED]
- [REDACTED]
- [REDACTED]

c. The applicant continues to serve on active duty.

3. On 21 November 2023, the U.S. Army Human Resources Command (HRC) provided an advisory opinion in the processing of this case. An HRC official stated:

a. HRC recommends disapproval of [Applicant's] request to transfer Post 9/11 GI Bill benefits to his dependent child, [REDACTED]. The Post 9/11 GI Bill is a Service Member's benefit; however, TEB is a retention incentive requiring an Additional Service Obligation (ASO) calculated from their TEB request date. It is always the Service Member's responsibility to know their TEB ASO period and the date they will complete their requirement, called the Obligation End Date (OED). To transfer the Post 9/11 GI Bill to dependents, an individual must be on Active Duty or in the Selected Reserve on or after August 1, 2009; have at least 6 years in Active Duty or Selected Reserve status; have no current negative action flag (e.g., height and weight flag, Army Combat Fitness Test/Army Physical Fitness Test failure flag); commit to the ASO; and transfer benefits to the dependents through the TEB website at <https://milconnect.dmdc.osd.mil>. Benefits must be transferred to all eligible dependents before the Service Member separates or retires. Public Law (PL) 110-252 makes no provisions for waiving this requirement.

b. HRC does not recommend administrative relief based on the following:

(1) On 12 May 2021, [Applicant] requested the transfer of 1 month to [REDACTED], 1 month to [REDACTED], 1 month to [REDACTED] and 1 month to [REDACTED]. [Applicant] did not transfer any months to his other dependents: [REDACTED] and [REDACTED]. [REDACTED] Applicant's TEB request was approved on 13 May 2021 by this office with no TEB service obligation because he is a Purple Heart (PH) recipient. Per Public Law 115-48 (commonly referred to as the Colmery Act), PH recipients are exempt from committing to the 4-year TEB service obligation.

(2) On 12 May 2021, when [Applicant] requested TEB, [REDACTED] was ineligible for the retention incentive because she had already reached her 21st birthday and was not in DEERS extended eligibility status (requires full-time status in an institution of higher learning (IHL) or less than full-time non-IHL approved by the Department of Veterans Affairs (DVA)). Additionally, [Applicant] did not transfer education benefits to [REDACTED] before she reached age 21.

(3) The applicant was eligible to transfer education benefits as early as 1 August 2009, when the Post 9/11 GI Bill education program and its TEB retention incentive was made available to Soldiers. Also, he could have requested TEB and transferred education benefits to [REDACTED] on/after her 21st birthday and before her 23rd birthday, if she had been enrolled as a full-time student in a IHL or DVA-approved less than full-time non-IHL student. If this option was elected, the applicant would had to have provided an IHL enrollment document from the IHL's Registrar's Office to his local DEERS Office, which would have updated the TEB website, so [REDACTED] reflects "eligible". On 26 September 2023, our office emailed HRC's DEERS Office to determine [REDACTED] DEERS extended eligibility status. The HRC DEERS Office reviewed

the DEERS database and confirmed [REDACTED] was not a full-time IHL student, so she was ineligible for the DEERS extended eligibility status so her status in the TEB website was and remains "ineligible."

(4) While PL 110-252, Section 3319(c)(2) states that Service Members may be eligible to transfer education benefits "To one or more of the individual's children", Army Regulation 621-202, Chapter 4-15g further states, "Eligible dependent status can be extended from age 21 and expires upon reaching their 23rd birthday only if the child is enrolled as a full-time student and unmarried (verified by DEERS). A child may be eligible if attending a DVA approved course less than full-time or in other programs (non-IHL, apprenticeship, correspondence, flight, or noncollege degree) and currently age 21 or 22; a request must be submitted in writing to the Soldier's TEB approving official in such cases. A Soldier must transfer at least one month to the eligible child before the child's 23rd birthday for the child to be eligible for TEB." Therefore, when a child reaches their 23rd birthday and if the transfer has not already occurred, the child is no longer eligible in DEERS for education benefits to be transferred. If the child reaches their 21st birthday and the TEB website reflects "ineligible", but the child is enrolled as a full-time IHL or DVA-approved less than full-time non-IHL student, the sponsor or dependent must provide documentation to the DEERS office before the child's 23rd birthday and while enrolled so the DEERS office could extend the child's eligibility status. A change to PL 110-252 will be required for dependent children past their 23rd birthday to be eligible for the TEB retention incentive and for this office to be able to assist accordingly.

(5) The applicant is still in the service and is permitted to adjust transferred months to his other eligible dependents. Currently, [REDACTED] does not meet the requirements, so a change in policy will be required to permit transfer to dependents when the dependent child has reached their 23rd birthday.

c. The applicant's military service may make his dependents eligible for other types of assistance.

4. The applicant was provided with a copy of the advisory opinion and given an opportunity to respond. 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 that relief was not warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered.

2. The evidence shows the applicant's TEB request was approved 13 May 2021 and the applicant transferred qualifying months to some of his dependents; however, he did

not transfer benefits to [REDACTED] prior to turning 21 years of age. The Board reviewed and concurred with the U.S. Army Human Resources Command's advisory opinion and noted the applicant's Purple Heart recipient status.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

:	:	:	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
■	■	■	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

The evidence presented does not demonstrate the existence of a probable error or injustice. Therefore, the Board determined the overall merits of this case are insufficient as a basis for correction of the records of the individual concerned.

[REDACTED]

[REDACTED] [REDACTED]

[REDACTED]

[REDACTED]

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 110-252 limits the eligibility to transfer unused benefits to those members of the Armed Forces who are serving on active duty or a member of the Selected Reserve.

a. A Soldier must be on active duty or a member of the Selected Reserve at the time of transfer of educational benefits to his or her dependent on or after 1 August 2009.

b. A Soldier must have at least 6 years of eligible service to transfer educational benefits to a spouse and at least 10 years of eligible service to transfer to eligible children.

c. A Soldier must also agree to serve the prescribed active duty service obligation based on the time in service the Soldier had on 1 August 2009.

2. The Post 9/11 GI Bill is a benefit for the Soldier as a reward for service during a time of conflict; however, the option to transfer this education benefit to eligible dependents are a retention incentive. The transfer incentive was included in the statute for the express purpose of recruitment and retention. It is neither a reward for service nor a transition benefit. Therefore, the incentive requires the Soldier to commit and fulfill additional service, in most cases, from the TEB request date. While PL 110-252, Section 3319(c)(2) states that Service Members may be eligible to transfer education benefits "To one or more of the individual's children", Army Regulation 621-202, Chapter 4-15g further states, "Eligible dependent status can be extended from age 21 and expires upon reaching their 23rd birthday only if the child is enrolled as a full-time student and unmarried (verified by DEERS). A child may be eligible if attending a Department of Veterans Affairs (DVA) approved course less than full-time or in other programs (non-institute of higher learning, apprenticeship, correspondence, flight, or noncollege degree) and currently age 21 or 22; a request must be submitted in writing to the Soldier's TEB approving official in such cases. A Soldier must transfer at least one month to the eligible child before the child's 23rd birthday for the child to be eligible for TEB." Therefore, when a child reaches their 23rd birthday and if the transfer has not already occurred, the child is no longer eligible in DEERS for education benefits to be transferred. If the child reaches their 21st birthday and the TEB website reflects "ineligible", but the child is enrolled as a full-time IHL or DVA-approved less than full-time non-IHL student, the sponsor or dependent must provide documentation to the DEERS office before the child's 23rd birthday and while enrolled so the DEERS office could extend the child's eligibility status.

//NOTHING FOLLOWS//