

IN THE CASE OF: ██████████

BOARD DATE: 14 March 2024

DOCKET NUMBER: AR20230006182

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

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

- DD Form 149 (Application for Correction of Military Record)
- Request for CP (BRS) form
- Leave and Earnings Statement (LES)

FACTS:

1. The applicant states in effect, he requests the correction of his record to shows he is eligible to be paid retroactive CP BRS. The memorandum for CP BRS was published on 1 January 2023; however, he did not receive any information regarding eligibility until 9 May 2023. By the time, he completed the required paperwork it was 3-weeks past his 12-years of service due to the failure of his chain of command to provide the information regarding this benefit.

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

a. On 15 December 2010, 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 25 April 2011. He had continuous service through reenlistments.

b. The applicant's Enlisted Record Brief shows:

- Pay Entry Basic Date (PEBD) as 25 April 2011
- Completed 10-years of service on 25 April 2021
- Completed 12-years of service on 25 April 2023
- Promoted to the rank/grade of staff sergeant (SSG)/E-6 on 1 March 2019

3. The applicant provides:

a. 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-6 and years of service at the time of his request. The certifying official signed the request on 16 May 2023 and the approval authority signed the request on 10 May 2023. The form bears control number [REDACTED].

b. LES shows for the period of 1 through 30 April 2023 the applicant has a pay date of 25 April 2011 and completed 12-years of service at the time and his retirement plan is the BRS.

4. On 20 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 would have otherwise submitted the CP BRS request prior to his 12-years of service had his unit notified him in a timely manner. The applicant did submit the completed request that was signed on 10 May 2023; however, the end point prior to 12-years of service was 25 April 2023. His request for payment of CP BRS should be based on the date he would have been qualified in the pay grade of E-6 with 12-years of service. Additionally, the Assistant Secretary of the Army for Manpower and Reserve Affairs memorandum regarding BRS CP was signed on 2 March 2023.

If the Board should grant the applicant administrative relief, the payment would be based on the pay grade of E-6 with 12-years of service from the 2023 pay scale, $\$4,419.90 \times 2.5 = \$11,049.75$ less applicable federal state tax.

5. On 24 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

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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//