

IN THE CASE OF: [REDACTED]

BOARD DATE: 10 April 2024

DOCKET NUMBER: AR20230006362

APPLICANT REQUESTS: in effect, an exception to policy to enroll in the Blended Retirement System beyond his 12th year of service.

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

- DD Form 149 (Application for Correction of Military Record)
- Email exchange with the U.S. Army Human Resources Command and other organizations
- Orders C-04-905372, 29 April 2019, reassignment within the U.S. Army Reserve

FACTS:

1. The applicant did not file within the 3-year time frame provided in Title 10, U.S. Code, section 1552(b); however, the Army Board for Correction of Military Records (ABCMR) conducted a substantive review of this case and determined it is in the interest of justice to excuse the applicant's failure to timely file.

2. The applicant states he requests to enter into the Blended Retirement Program.

a. He was in the process of transferring from the Army Reserves to AGR (Active Guard Reserve) during the window to opt into the Blended Retirement but the option to opt in did not show up for him in DFAS (Defense Finance and Accounting Service). He ended not entering the AGR program and went into the IRR (Individual Ready Reserve). These events took place during the holiday season when it was hard to get assistance in resolving this issue. He was also working with a lawyer to get custody of his son, so things were very chaotic. He was advised by his Army Reserve S1 that he would have the option to opt into the Blended Retirement Program once he went back into the Army Reserves but when he reentered the Army Reserves in 2019, he ran into issues.

b. He asked his new unit's S1 for assistance in entering into the Blended Retirement Program and they told him to call DFAS who referred him back to his S1. He later emailed HRC (U.S. Army Human Resources Command) and was routed to several other representatives who ultimately could not help him. Since then, he has been looking for different leads and came across a new HRC contact. The last email he sent

was August 2022 and received a response this week (May 2023) advising him to submit this request. He had no idea this process existed or if this process can assist him in opting into the Blended Retirement System, but he thought it would be worth a shot.

c. He was unable to enter into the Blended Retirement Program because he was processed into the IRR. The LTC (lieutenant colonel) in his S1 shop advised him that he could opt into the BRS once I reentered the Army Reserve again. When I returned to the reserves in 2019 the S1 shop had no idea on how to help him opt into the BRS and routed him to DFAS who routed him back to his S1. He later emailed a contact at HQDA (Headquarters, Department of the Army) G1 who advised him to seek assistance once more with his S1. He followed up again August 2022 and was sent an email this week (May 2023) to submit this request. He was unaware of this process prior to that email.

3. Review of the applicant's service records shows:

a. He enlisted in the U.S. Army Reserve on 6 March 1995 for 8 years. His Pay Entry Basic Date (PEBD) was established as 6 March 1995.

b. On 10 September 1999, he transferred to the U.S. Air Force Reserve as a cadet, through 9 April 2007.

c. On 10 April 2007, he again enlisted in the U.S. Army Reserve as an E-4. He completed training from 10 April through 5 July 2007 for award of military occupational specialty 42A, HR Specialist.

d. He was mobilized and entered active duty from 2 July 2007 to 3 August 2008, serving in Iraq from October 2007 to June 2008. During mobilization, he submitted an Application for Appointment as a Commissioned Officer of the U.S. Army Reserve.

e. On 7 July 2009, he executed an oath of office and was appointed a Reserve commissioned officer of the Army. He served in a variety of assignments and was promoted to major.

f. On 19 October 2018, the applicant was reassigned from the U.S. Army Reserve Control Group (Reinforcement or IRR) to the Standby Reserve (Inactive List) for failing to make an MSO (Military Service Obligation) Election.

g. On 26 April 2019, he was issued order transferring him from the U.S. Army Reserve Control Group (IRR) back to a troop program unit, 12th Battalion, Army Reserve Careers Group, Grand Prairie, TX. (Voluntary request).

h. On 1 March 2020, he was again reassigned from his TPU, to the U.S. Army Reserve Control Group (Reinforcement or IRR) (voluntary request).

i. The applicant reached his 12th year of service but there is no evidence he submitted a Continuation Pay – Blended Retirement System form with a control number, or signature by himself or the certifying/approving officials, or agreement to serve the additional service obligations or indicating the method of payment.

4. On 20 October 2023, the Army G-1 provided an advisory opinion in the processing of this case. An advisory official referenced:

- Title 37, United States Code, Section 356
- Office of the Secretary of Defense, memorandum (Implementation of the Blended Retirement System), 27 January 2017
- Assistant Secretary of the Army (Manpower and Reserve Affairs) (ASA (M&RA)), memorandum (Blended Retirement System (BRS) Continuation Pay (CP) - Calendar Year 2022 (CY22)), 27 January 2022
- All Army Activities Message 067/2020, Extension to Implementation Guidance for Exception to Policy to Retroactively Enroll Certain Eligible Soldiers in the Blended Retirement System and Hardship Extension of the Enrollment Period, 31 July 2020

After careful review of the information provided this office cannot provide an advisory opinion on the applicant's request for an exception to policy for BRS enrollment until the Soldier exhausts all efforts for enrollment in accordance with reference above.

5. The applicant responded to the advisory opinion stating he wanted to make sure the Board knew that he wanted to add notes to his file but my sister in law was in a car accident and his son's mother got COVID, both this past week so he just now realized he may be past his time to add notes so he is writing this in hopes someone can reopen the file or add these notes.

a. He was not able to opt into the BRS because the unit he returned to when he reentered the Army Reserves was not aware how to process that request. He reached out to several people, looked for help at HRC and was ultimately routed to this Board but this is way outside of that allotted 1 month time frame to opt into the BRS once returned to the Reserves so here we are.

b. Most people were not even aware they could opt into the BRS if they were in the IRR (once returning to the Reserves) but the S1 staff was not trained how to process this request or even that this was a real option. It is clear how his request/situation fell through the cracks, so his request is solid and completely valid.

BOARD DISCUSSION:

After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was not warranted. The Board carefully considered the applicant's record of service, documents submitted in support of the petition and executed a comprehensive and standard review based on law, policy and regulation. Upon review of the applicant's petition, available military records and the Office of the Deputy Chief of Staff-G-1- Compensation and Entitlements Division advisory opinion, the Board concurred with the advising official finding the applicant has not exhausted all his administrative remedies for enrollment. The Board determined based on the advising opine and insufficient evidence the applicant's contention for an exception to policy to enroll in the Blended Retirement System beyond his 12th year of service is without merit and relief is denied.

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.

4/11/2024

X [REDACTED]

CHAIRPERSON

[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. Title 10, U.S. Code, section 1552(b), provides that applications for correction of military records must be filed within 3 years after discovery of the alleged error or injustice. This provision of law also allows the ABCMR to excuse an applicant's failure to timely file within the 3-year statute of limitations if the ABCMR determines it would be in the interest of justice to do so.

2. On 27 January 2017, the Deputy Secretary of Defense implemented guidance for the Blended Retirement System (BRS) for uniformed services, authorized by Public Law 114-92 (National Defense Authorization Act for Fiscal Year 2016). The BRS is a one-time payout available to Active Duty, Army National Guard, and Reserve Service Members covered under the BRS with between 8 and 12 years of service who can enter into an agreement to perform additional obligated service. BRS includes a Continuation Pay provision to encourage Service Members to continue serving. Continuation pay is a mid-career bonus payment given in exchange for an agreement to serve a specific number of years and is a direct cash payout, like a bonus. Per the BRS Continuation Pay Implementation guidance, all Soldiers may submit their continuation pay request no earlier than 180 days prior to completing their 12th year of service, based on their pay entry basic date. Soldiers should submit their continuation pay request no later than 30 days prior to completing their 12th year of service.

3. Title 37 U.S. Code § 356 - Continuation pay: full TSP members with 8 to 12 years of service,

a. Continuation Pay.—The Secretary concerned shall make a payment of continuation pay to each full TSP member (as defined in section 8440e(a) of title 5) of the uniformed services under the jurisdiction of the Secretary who—

(1) has completed not less than 8 and not more than 12 years of service in a uniformed service; and

(2) enters into an agreement with the Secretary to serve for not less than 3 additional years of obligated service.

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 regular component or a reserve component, if the member is performing active Guard and Reserve duty (as defined in section 101(d)(6) of title 10), shall not be less than 2.5 times the member's monthly

basic pay. The multiple for a full TSP member who is a member of a reserve component not performing active Guard or Reserve duty (as so defined) shall not be less than 0.5 times the monthly basic pay to which the member would be entitled if the member were a member of a regular component. The maximum amount the Secretary concerned may pay a member under this section is—

(1) in the case of a member of a regular component— (A) the monthly basic pay of the member at 12 years of service multiplied by 2.5; plus (B) 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); and

(2) in the case of a member of a reserve component— (A) the amount of monthly basic pay to which the member would be entitled at 12 years of service if the member were a member of a regular component multiplied by 0.5; plus (B) at the discretion of the Secretary concerned, the amount of monthly basic pay described in subparagraph (A) multiplied by such number of months (not to exceed 6 months) as the Secretary concerned shall specify in the agreement of the member under subsection (a).

c. Additional Discretionary Authority.— In addition to the continuation pay required under subsection (a), the Secretary concerned may provide continuation pay under this subsection to a full TSP member described in subsection (a), and subject to the service agreement referred to in paragraph (2) of such subsection, in an amount determined by the Secretary concerned.

d. Timing of Payment.— The Secretary concerned shall pay continuation pay 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.

e. Lump Sum or Installments.— A full TSP member may elect to receive continuation pay provided under subsection (a) or (c) in a lump sum or in a series of not more than four payments.

f. Relationship to Other Pay and Allowances.— Continuation pay under this section is in addition to any other pay or allowance to which the full TSP member is entitled.

g. Repayment.— A full TSP member who receives continuation pay under this section (a) [1] and fails to complete the obligated service required under such subsection shall be subject to the repayment provisions of section 373 of this title.

//NOTHING FOLLOWS//