

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 1 March 2024

DOCKET NUMBER: AR20230006611

APPLICANT REQUESTS: in effect, an exception to policy for payment of Continuation Pay (CP) under the provisions of the Blended Retirement System (BRS).

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

- DD Form 149 (Application for Correction of Military Record)
- Defense Finance and Accounting Service Military Leave and Earnings Statement (LES), 21 September 2022
- U.S. Army Reserve (USAR) Form 26-R (Pay Document - Transmittal Letter), 11 October 2022
- DA Form 4856 (Developmental Counseling Form), 13 October 2022
- Commander's Memorandum for Record (MFR) - Subject: Letter of Lateness – Late submission for [applicant's] request for CP BRS, 24 October 2022
- DD Form 577 (Appointment/Termination Record - Authorized Signature), 15 October 2022
- Request for CP BRS, 17 October 2022
- USAR Form 22-R (Adjustment Certification Worksheet), 13 December 2022

FACTS:

1. The applicant states there was a system error in applying for the CP bonus. The error caused his application to miss the target window for application. The error around his CP application was due to sudden and unexpected changes in leadership and loss of unit full-time support, causing the original packet to not be submitted. He was unaware that the packet was not submitted until months later. The error has been fixed and he is entitled to the CP bonus.

2. A review of the applicant's official military record shows the following:

- a. He enlisted in the Regular Army on 30 December 2009.

b. Orders Number 272-197 published by Headquarters, U.S. Army Garrison Fort Sill, OK, promoted the applicant to the rank/grade of sergeant (SGT)/E-5 with an effective date of rank of 1 October 2012.

c. On 12 April 2017, the applicant was honorably released from active duty and transferred to his USAR unit. DD Form 214 (Certificate of Release or Discharge from Active Duty) shows he completed 7 years, 3 months, and 13 days net active service this period.

d. On 3 July 2019, he reenlisted in the USAR for 6 years. DD Form 4 (Enlistment/Reenlistment Document Armed Forces of the United States) shows his pay grade was E-5 on the date of his reenlistment.

e. DA Form 5016 (Retirement Accounting Statement) dated 26 October 2023, lists his Pay Entry Base Date (PEBD) as 30 December 2009 and rank as SGT.

f. The applicant completed 12 years of service on 30 December 2021.

3. In support of his case, the applicant provides:

a. An LES dated 21 September 2022, which shows, in pertinent part, his pay grade as E-5 with a pay date of 30 December 2009, and Thrift Savings Plan (TSP) data.

b. USAR Form 26-R dated 11 October 2022, which shows the documents he submitted for processing of CP BRS.

c. DA Form 4856 dated 13 October 2022, showing he was counseled and certified that he elected to participate in the BRS through his MyPay account, he completed no more than 12 years of service, as calculated by the PEBD prior to his enrollment in the BRS, and agreed to serve no less than 4 years.

d. Commander's MFR - Subject: Letter of Lateness – Late submission for [applicant's] request for CP BRS, dated 24 October 2022, wherein, the commander states, due to sudden and unexpected changes in leadership and loss of the unit's full-time support, the original packet was not submitted. The applicant was unaware that the packet was not submitted until months later.

e. DD Form 577 dated 15 October 2022, which appointed a Staff Sergeant R- S- as the certifying officer/official for CP BRS requests.

f. A Request for CP BRS approved on 17 October 2022, which shows the applicant acknowledged he understood he would be receiving CP, as part of the BRS, in return for his continued service in the USAR. He agreed to accept CP and the amount of

payment would be 4 times the monthly basic pay for his current pay grade and years of service listed on the monthly basic pay table provided by DFAS in effect on the date he signed the form. He also agreed to an Additional Obligated Service of 4 years commencing from the date he signed the request form, and he requested his CP to be paid in one single lump-sum payment. The form was endorsed by the certifying official on 15 October 2022 and the approval authority on 17 October 2022. Additionally, the form does not bear a control number.

g. USAR Form 22-R dated 13 December 2022, which shows he requested the processing of his BRS CP.

4. On 20 October 2023, the Office of the Deputy Chief of Staff G-1, Program Analyst, Compensation and Entitlements Division, provided an advisory opinion for this case and recommended approval. The advisory official stated:

a. After careful review of the information provided, we recommend this case be approved in the interest of fairness and equity. The applicant's unit commander stated that due to changes in leadership and loss of support the original packet was not submitted, otherwise the CP application would have been submitted on time. The applicant did submit a completed request for CP signed effective 13 October 2022; however, the end point prior to 12 years of service for pay was 30 December 2021.

b. The applicant's request for payment of CP should be made based on the date he would have been otherwise qualified for in accordance with reference 1.c, specifically, in the pay grade of E-5 with 12 years of service for pay on 30 December 2021. Additionally, the control number (block 6) needs to be changed to reflect CP21120XX.

c. If the Board grants administrative relief, the payment would be based on the pay grade of E-5 with 12 years for pay purpose from the 2021 pay scale ($\$3,606.90 \times 4.0$ (Multiplier) = $\$14,427.60$ less 22 percent federal tax and applicable state tax).

5. On 31 October 2023, by email, the applicant responded to the G-1 advisory opinion and stated, he received the letter [advisory opinion] and had no comments.

BOARD DISCUSSION:

1. After reviewing the applicants request for an exception to policy for payment of Continuation Pay (CP) under the provisions of the Blended Retirement System (BRS), 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.

2. The Board agreed with the advisory opinion from the G-1, which recommend approval of the applicant's request in the interest of fairness and equity, based on the statement from the applicant's commander that the applicant's original application for CP under the provisions of the BRS was not submitted due to changes in leadership and loss of support; however, if this had not been the case, his CP application would have been submitted on time.

BOARD VOTE:

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:	:	:	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:

- a. amending his Request for CP (BRS) to show his CP (BRS) request was properly and timely completed, timely received, and promptly approved in processed,
- b. correcting 6 (Control Number) of the applicant's Request for CP (BRS)to add the entry, "CP2112001," and
- c. paying him in the pay grade of E-5 with 12 years of service for pay on 30 December 2021.

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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. Title 37, United States Code (USC), Section 356 (CP: Full Thrift Savings Plan (TSP) Members with 12 years of service) states:

a. 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

b. The amount of CP payable to a full TSP member shall be the amount that is equal to:

(1) 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 as the Secretary concerned shall specify in the agreement; and

(2) In the case of a member of a Reserve Component, 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 at the discretion of the Secretary concerned, the amount of monthly basic pay multiplied by such number of months as the Secretary concerned shall specify in the agreement.

c. In addition to the CP, the Secretary concerned may provide CP to a full TSP member in an amount determined by the Secretary concerned.

d. The Secretary concerned shall pay CP to a full TSP member when the member completes 12 years of service. If the Secretary concerned also provides CP to the member, that CP shall be provided when the member completes 12 years of service.

e. A full TSP member may elect to receive CP in a lump sum or in a series of not more than four payments.

f. CP is in addition to any other pay or allowance to which the full TSP member is entitled.

g. A full TSP member who receives CP and fails to complete the obligated service required shall be subject to the repayment provisions.

2. Office of the Assistant Secretary of the Army Manpower and Reserve Affairs Memorandum – Subject: Blended Retirement System (BRS) Continuation Pay (CP) - Calendar Year 2022 (CY22), which superseded CY21 memorandum, establishes eligibility, amounts, and additional service obligation for CP in CY22 as authorized in Title 37, USC, Section 356 and 373. This guidance is effective immediately and expires on 31 December 2022. It applies to Regular Army (RA), Army National Guard/Army National Guard of the United States, and United States Army Reserve Soldiers who are covered under the BRS.

a. Paragraph 4a (Eligibility) states, RA and Active Guard Reserve (AGR) members who meets the following criteria are eligible to enter into an agreement to serve the obligation period specified in paragraph 6 below:

- Is covered under the BRS; and
- Is between 10 and no more than 12 years of service, as computed from the Soldier's Pay Entry Base Date (PEBD).

b. Paragraph 4b states, Army Reserve and Army National Guard, not in an AGR status, must meet the eligibility criteria listed in paragraph 4.a and be a member of the Selected Reserve (SELRES) or otherwise a member of the Ready Reserve in a status in which the member is eligible to receive basic pay.

c. Paragraph 5 (CP Amount) states, for those eligible to apply for CP during CY22, the CP amount will be computed using their current pay grade and years of service as listed on the monthly basic pay table provided by the Defense Finance and Accounting Service in effect on the date of the Soldier's request and as follows: (1) For RA, and Title 10 and Title 32 AGR Soldiers performing active service in a career status program, CP is 2.5 times the monthly basic pay. (2) For Army Reserve and Army National Guard Soldiers serving in the SELRES (minus AGR), CP is 4 times the active duty monthly basic pay.

d. Paragraph 6 (Service Obligation) states, in exchange for the CP described in paragraph 5, Soldiers must agree to serve four years of additional service in the component in which they are serving at the time CP is requested. The service obligation commences on the date of the Soldier's CP request.

e. Paragraph 7 (Application Process) states, the Army will use the Request for Continuation Pay (Blended Retirement System) as the CP contract to document the Soldier's CP election and obligated service. The CP contract will be placed in the Interactive Personnel Electronic Records Management System, referred to as iPERMS, under the service and finance subfolders. At a minimum, the BRS CP election packet will include the following:

- Proof of BRS enrollment status.
- Request for Continuation Pay (Blended Retirement System)/CP contract.

f. All Soldiers may submit their CP request once they become eligible for CP based on meeting eligibility criteria listed in paragraph 4. Soldiers must sign their CP request on or before the start of their 12th year of service based on PEBD. Payments are not payable until BRS opt-in can be verified, and the CP is approved. Commanders may appoint appropriate personnel to serve as CP certifying officials. When no appointment has been made, the certifying official will be the Soldier's servicing military personnel office and/or servicing human resources specialist.

g. Paragraph 8 (Payment Options) states, (1) Soldiers may elect to receive CP in a single lump sum or in a series of equal installments, not to exceed four annual payments over four consecutive years. (2) Soldiers who want to have their CP payment(s) directed to their TSP must update their allotment allocations in myPay and their TSP settings to ensure the CP funds are distributed in accordance with their personal financial plan prior to submitting the CP request.

h. Paragraph 9 states, the approval authority will be the requesting Soldier's immediate commander.

//NOTHING FOLLOWS//