

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 6 September 2024

DOCKET NUMBER: AR20230007244

APPLICANT REQUESTS:

- his retired base pay and Survivor Benefit Plan (SBP) coverage be calculated based on the fact that he did not receive a Career Status Bonus (CSB)
- removal the erroneous wording from his Retiree Account Statement (RAS)

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

- DD Form 149 (Application for Correction of Military Record)
- Delaware Army National Guard (DEARNG) Orders 068-0001
- DEARNG Order 053-0001
- DEARNG Order 068-0001

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's request for removal of information from his RAS is outside the purview of the ABCMR and will not be further addressed in these proceedings. The applicant may seek assistance through the Defense Finance and Accounting Service for an update to his RAS.
3. The applicant states he did not receive the CSB. His retirement Order 053-0001, dated 22 February 2022 were corrected by Order 068-0001, dated 9 March 2022 to show "career status bonus: 3-Soldier is eligible and has elected not to participate." Both orders are in his electronic personnel records and clearly visible.
4. The applicant enlisted in the Regular Army on 29 December 1989, completed training with award of the military occupational specialty 31B (Military Police). He served on active duty until 30 June 1997.

5. He enlisted in the Delaware Army National Guard (DEARNG) on 12 March 1999 serving as an ARNG Unit Member until 31 August 2001 with a period of mobilization from 9 August 2002 through 16 June 2003.
6. On 1 September 2004, he entered the ARNG Active Guard Reserve (AGR) under Title 32 USC, State Controlled and ARNG Active Duty Operational Support (ADOS) under Title 32 USC where he served until his retirement on 30 June 2022.
7. DEARNG Orders 053-0001, dated 22 February 2022 show the applicant's retirement effective 30 June 2022 with a note stating " Career Status Bonus: 2 - SOLDIER IS ELIGIBLE AND HAS ELECTED TO PARTICIPATE."
8. DEARNG Orders 068-0001, dated 9 March 2022, amended the CSB statement to read " CAREER STATUS BONUS: 3 - SOLDIER IS ELIGIBLE AND HAS ELECTED NOT TO PARTICIPATE."
9. A RAS, issued by the Defense Finance and Accounting Service on 21 July 2022, shows the statement since he elected the CSB, he has elected to base his SBP on the gross pay amount that would have been in effect had he not elected the CSB.
10. In the processing of this case, an advisory opinion was obtained from the National Guard Bureau (NGB) stating:
 - a. The NGB recommended the applicant's request be returned without action
 - b. The opinion listed the applicant's service entered military service and retirement effective 1 July 2022 with 31 years 1 month, 1 day of creditable service for retired pay.
 - c. It noted that prior to his effective date of retirement on 22 February 2022, the DEARNG issued Orders 053-0001 indicating that the Soldier was eligible for and had elected to receive the Career Status Bonus (CSB).
 - d. The applicant asserted that he never made such an election and never received a CSB. His claim is supported by the DEARNG's issuance of Orders 068-0001 dated 9 March 2022 amending Orders 053-0001 to read that the Soldier was eligible for CSB and elected to not participate.
 - e. A review of the applicant's Defense Retirement and Annuity System (DRAS) record shows that he has been receiving the "High 36" base amount effective the date he retired. His gross retired pay and SBP coverage amounts are correct and require no action from the ABCMR or the DEARNG.

11. A copy of the advisory opinion was forwarded to the applicant and he replied on 7 April 2024 stating:

a. He was pleased to see that NGB concurred that he did not receive the CSB and would like to have that erroneous statement removed from his RAS as requested.

b. He does believe the Gross Pay used to calculate the 55% annuity is correct, but that dollar amount is not listed as the Gross Pay on my RAS. He does not believe the Gross Pay listed on his RAS is correct and would like to have it corrected to reflect the Gross Pay used to calculate the SBP annuity. If the numbers are not the same, he would like to be sent the formula and numbers DFAS used to calculate his Gross Pay.

c. His concern is that if this erroneous wording remains, it may affect any future SBP payments my wife might receive as well as his retirement pay calculations. He called DFAS and asked them to remove this wording, but was told it could only be removed using the ABCMR process.

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 review based on law, policy, and regulation. Upon review of the applicant's petition, military records, and the advising official from the National Guard Bureau, the Board determined the applicant is currently receiving coverage in the appropriate amounts from the Defense Finance and Accounting Service (DFAS). The Board does note if the applicant believes this amount to be calculated in error, he should address the monetary discrepancy with DFAS. Based on this the Board determined relief was not warranted.

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.

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. The Army Retirement website provides:

a. The High-36 Plan is one of several retirement plans for the military, including the Final Pay Plan and the REDUX Plan. The Final Pay Plan uses a soldier's final basic pay as the retired pay base, while the REDUX Plan uses the High-36 method but reduces the multiplier by one percentage point for each year the soldier has less than 30 at retirement.

b. The High-36 Plan is a retirement plan for soldiers who entered the military between 8 September 1980 and 31 July 1986. It calculates retired pay using the average of a Soldier's highest 36 months of basic pay after 20 years of service. The plan adds 2.5% for each additional year of service, and also includes a Cost-of-Living Adjustment (COLA)

c. The US Army's Career Status Bonus (CSB) is a \$30,000 bonus that active duty members can receive after 15 years of service if they agree to serve for 20 years. The CSB is part of the Military Retirement Reform Act (MRRA), also known as REDUX, which is only available to members who entered service on or after August 1, 1986. In exchange for the CSB, members' retired pay will be calculated at a reduced rate under the REDUX retirement system. Retirement pay after 20 years of service is calculated at 40% of the average of the member's highest basic pay over 36 months, plus an additional 3.5% for each additional year of service. However, for each year less than 30 that the member has at retirement, a one percentage point multiplier reduction is applied.

//NOTHING FOLLOWS//