

IN THE CASE OF: ██████████

BOARD DATE: 29 March 2024

DOCKET NUMBER: AR20230007269

APPLICANT REQUESTS: reconsideration of his previous request for reinstatement of his expired transportation and Household Goods (HHG) shipping entitlements.

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

- DD Form 149 (Application for Correction of Military Record)
- Previous ABCMR Record of Proceedings
- Personal Statement
- Congressional Emails/Privacy Acts Statement
- Department of Veterans Affairs Rating Decision

FACTS:

1. Incorporated herein by reference are military records which were summarized in the previous consideration of the applicant's case by the Army Board for Correction of Military Records (ABCMR) in Docket Number AR20220004323 on 4 October 2022.

2. The applicant states

a. He was medically retired from the Army in November 2018 after 22 years of service. During his retirement briefing, he was told he had up to 5 years to conduct his final household goods shipment. In November 2021, he began the process to do so via the Fort Gregg-Adams (Lee), VA transportation office but he was told he no longer qualified as he did not check in on a yearly basis. This requirement was supposedly communicated to him during his retirement briefings at Fort Belvoir, VA. He must say that with everything going on during that emotionally charged time, he does not recall that to be the case. He is not saying it couldn't have happened but again, this was an extremely stressful time, and he could have easily missed that particular detail. He was instructed to request to have his benefits reinstated via the Army Review Board which he did in December of 2021.

b. After almost a year of no updates with the exception of "your case is being reviewed", and after he had to pay the expenses to move himself, he finally received a notification stating that the Army Review Board unanimously voted to restore his

benefits. However, the Deputy Assistant Secretary of the Army (Review Boards) (DASA (RB)), took it upon himself to unilaterally overturn the decision. He does not believe this is fair to a veteran like himself who served this country honorably for 22 years.

c. Restoring the benefit of returning his household goods to his home of record or other place of his choosing should not be a hard ask. In fact, the need to check in on a yearly basis is ridiculous in and of itself. If a retiree has 5 years to utilize the benefit, there should be no yearly requirement. If a veteran applies within the 5-year period, their household goods should be moved without any question. Adding additional step of requiring a yearly check in is purely designed to decrease the number of claims as they are counted on someone missing the check-in. He has already completed move to the great state [REDACTED] but would like to be reimbursed for his expenses.

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

a. The applicant was appointed as a commissioned officer and executed an oath of office on 23 September 1999. He served in a variety of stateside or overseas assignments, including Iraq, and attained the rank of lieutenant colonel

b. On 27 March 2018, an Informal Physical Evaluation Board (PEB) convened and found the applicant physically unfit for continued military service. A subsequent formal PEB also found him unfit and recommended his permanent disability retirement.

c. On 14 August 2018, Joint Base Myer – Henderson Hall, Arlington, VA., published Orders Number 226-0001 retiring the applicant on 14 November 2018 due to disability and placing him on the retired list effective 15 November 2018. The retirement order does not address the applicant's entitlement to ship household goods to a home of selection.

d. On 14 November 2018, the applicant was medically retired from military service. His DD Form 214 (certificate of Release or Discharge from Active Duty) shows he completed over 22 years of active service.

3. On 22 November 2021, in response to the applicant's request, the Department of Logistics, U.S. Army Sustainment Command, Fort Lee informed the applicant that:

a. His travel and transportation authorization to home of selection at government expense expired on 14 November 2019 and cannot be reinstated by HQDA G-4. Unfortunately, this office does not have Joint Travel Regulations (JTR) authority to reinstate an expired transportation shipping authorization of household goods from 24 months ago or waive the annual extension request requirement.

b. Mandatory installation/transition/transportation/out-processing briefings discuss retirement benefits which offer the opportunity to ask questions, if not clear or understood on a Soldier's requirement to submit annual extension requests to the Fort Lee Transportation Office. Extensions are not required to be submitted in person or do not require a visit (prior to the expiration of the entitlement) to the Fort Lee Transportation Office. Extensions can also be sent via documented letter, work, or personal email 30-60 days in advance of the entitlement expiration date, with telephonic or work or personal email follow-up to receive the Fort Lee Transportation Office extension memo back.

c. The Joint Travel Regulations (JTR) contains basic statutory regulations concerning a Uniformed Service member's travel and transportation authorization and are interpreted to have the force and effect of law. JTR paragraph 051003-11. Time Limitations for Travel to the HOS. A Service member and dependent must begin travel to a home of selection HOS within 1 year of the Service member's termination from active duty unless additional time is authorized or approved. JTR paragraph 052013. HHG Transportation in Connection with Retirement B. Time Limits. HHG must be turned over for transportation within 1 year following active duty termination.

4. On 26 July 2022, the Office of the Deputy Chief of Staff, G-4 Chief, Transportation Policy Division, provided an advisory opinion in the processing of this case. A G-4 advisory stated:

a. This office reviewed the application and noted the following regulatory provisions in support of a decision. The Secretarial Process (Army G-1/G-4) has no Joint Travel Regulations (JTR) authority to reinstate an expired travel and transportation, household goods (HHG) shipment authorization, which ended on November 14, 2019. The JTR is the basic statutory regulation governing a uniformed member's travel and transportation at government expense and has the force and effect of law issued primarily under the authority of Title 37 United States Code Section 481.

b. JTR paragraph 051003-11, Time Limitations for Travel to the Home of Selection (HOS). A Service member and dependents must begin travel to an HOS within 1-year of the Service member's termination from active duty unless additional time is authorized or approved. JTR paragraph 052013, HHG Transportation in Connection with Retirement, B. Time Limits. HHG must be turned over for transportation within 1-year following active duty termination. The applicant's retirement orders, dated August 14, 2018, show a retirement date of November 14, 2018. The retiree was required to request and receive annual transportation extension(s) from a transportation office each year prior to his retirement anniversary date.

c. The applicant did not submit an extension before his one year of authorization expired on November 14, 2019. The retiree submitted his first extension request to the

Fort Lee, VA Transportation Office on November 17, 2021. This office lacks the JTR authority to retroactively approve an expired travel and transportation authorization 24 months after the fact.

d. On 30 July 2022, the applicant was provided with a copy of the advisory opinion and afforded 14 days to provide comments. As of 20 September 2022, the applicant had not responded.

5. On 4 October 2022, the ABCMR considered the applicant's request to reinstate his transportation/HHG entitlements. After reviewing the application, 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. The Board stated:

a. The applicant's retirement orders reflect a retirement date of 14 November 2018. He was required to request and receive annual transportation extension(s) from a transportation office each year prior to his retirement anniversary date. The applicant did not submit an extension prior to his one-year authorization expiring (14 November 2019). His first extension was not submitted until 17 November 2021.

b. The JTR indicates that retirement transportation and travel entitlements will be used within 1 year of retirement; however, it also provides for extensions of this entitlement in 1-year increments up to 5 additional years, or a total of 6 years. Extensions due to unforeseen medical reasons, education, or training, and/or other deserving cases when an unexpected event beyond the retiree's control occurs which prevents the retiree from moving within the time limits may be granted under these extension provisions. The applicant provides justification in that at the time of his retirement, his children were attending college locally and he was not prepared to relocate.

c. Although there is no evidence that he was not properly counseled, it is clear that the only reason his transportation allowance expired was his failure to submit a request in a timely manner. The Board found no barrier to recommending correction of the applicant's records to show he submitted annual requests for extension and reinstatement of her HHG shipment entitlements and that his requests were approved through 14 November 2024 (6 years after his retirement). This would, in effect, authorize the applicant time to use the approved extension to complete his final move.

6. On 14 October 2022, the DASA (RB) reviewed the evidence presented, findings, conclusions, and Board member recommendations. Given that the ABCMR is not charged with correcting records merely because there is "no barrier" to such a correction, but rather on the basis of error or injustice, and given that the applicant has not demonstrated by a preponderance of evidence the existence of an error or injustice

warranting the records correction recommended by the ABCMR, based upon the lack of evidence showing the applicant submitted a request to extend his transportation benefit for HHG IAW JTR guidance, as well as the lack of evidence of an unexpected life event beyond the applicant's control, the DASA (RB) finds there is insufficient evidence to grant relief. Therefore, the application submitted by the individual concerned is denied.

BOARD DISCUSSION:

1. The Board reviewed and carefully considered the application, all supporting documents, and the evidence found within the military record, the applicant's contentions.
2. The Board majority found relief was not warranted because there is no evidence that he was not properly counseled and the only reason his transportation allowance expired was his own failure to submit a request in a timely manner.
3. The Board minority found relief was warranted. The minority felt the transportation appliance should be extended to 5 years because life often gets in the way of remembering to annually renew requests; additionally, this is something he earned.

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 to amend decision of the ABCMR set forth in Docket Number AR20220004323, dated 4 October 2022.

6/10/2024

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CHAIRPERSON

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:

The Joint Travel Regulation (JTR) section 052013 C1 (HHG Transportation in Connection with Retirement) states a Service member is authorized HHG transportation from the last permanent duty station to the Service Member's Home of Selection (HOS). Extensions may be granted through the Secretarial process for an unexpected event beyond the Service member's control that occurs and that prevents him or her from moving to the HOS within the specified time limit. A Service member must request all extensions in writing using the Secretarial process. An extension may not be for more than 6 years from the date of retirement. Paragraph JTR 051003.I, in effect when the applicant retired, Time Limitations for Travel to the HOS.

a. A Service member and dependent must begin travel to an HOS within 3 years of the Service member's termination from active duty unless additional time is authorized or approved through the Secretarial Process. A Service member is eligible for the 3 year time limitation if the active duty termination effective date is on or after June 24, 2022. The 3 year time limitation does not apply retroactively to a travel authorized for a Service member or dependent with an effective active duty termination date before the effective date.

b. If a Service member is prevented from traveling due to an unexpected event that is beyond the Service member's control and is related to the Service member's separation from the Service, the 3-year time limit applies for both the Service member and dependent's travel unless extended through the Secretarial Process. Any extension must be in the Service's best interest or substantially benefit the Service member and is not costly and does not have an adverse impact to the Service.

c. A Service member must request all extensions in writing using the Secretarial Process. An extension may not be for more than 6 years from the date of retirement. The request must include the following:

- A description of the circumstances that prevent travel within the specified time period.
- The specific amount of additional time required. An extension should be for the shortest time necessary based on the circumstances. The 6-year limit may only be extended for travel to the HOS if a Service member has a certified and on-going medical condition.

//NOTHING FOLLOWS//