

IN THE CASE OF: [REDACTED]

BOARD DATE: 4 April 2024

DOCKET NUMBER: AR20230007797

APPLICANT REQUESTS: correction of his records to show he enrolled in the Blended Retirement System prior to completion of his 12th year of service in January 2021.

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

- DD Form 149 (Application for Correction of Military Record)
- Request for Continuation Pay (Blended Retirement System) (CP-BRS), signed on 10 January 2021
- Email

FACTS:

1. The applicant states in January 2021, he submitted a request for continuation pay for extending his military enlistment contract by 4 years under the Blended Retirement System. This request under the Reserve Component pay system should have entitled him to 4 months of active duty pay in a lump sum and was also signed and submitted in a duty free hazardous duty zone. He submitted the form to his Battalion S1 personnel, and it was processed by said personnel. After some time, it was realized that the form had been an incorrect, and that he submitted an outdated version, and the allowed submission window for the continuation pay under the Blended Retirement System was closed.

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

a. He enlisted in the Army National Guard (ARNG) on 20 January 2009. He served through multiple extensions in a variety of stateside and overseas assignments.

b. The applicant reached his 12th year of service on 20 January 2021. He executed a 4-year extension in the ARNG on 24 March 2020 and a 3-year extension on 23 July 2023.

c. The applicant provides a CP – BRS Form (with a Control Number from his unit or command), signed by the applicant on 10 January 2021. His certifying and approving

officials signed it on 15 January 2021. He requested 4 times his basic pay, to be paid in one lump sum, and agreed to additional obligated service of 4 years.

d. He continues to serve in the ARNG and has completed 17 qualifying years of service towards non-regular retirement (as of May 2023).

3. On 4 December 2023, the Army G-1 provided an advisory opinion in the processing of this case. The 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, and Assistant Secretary of the Army (Manpower and Reserve Affairs) (ASA (M&RA)), memorandum (Blended Retirement System (BRS) Continuation Pay (CP) - Calendar Year 2021 (CY21)), 19 January 2021

a. After careful review of the information provided, the Army G-1 recommends this case be approved in the interest of fairness and equity. The applicant's unit failed to ensure that the updated version of the CP application for CY 21 was submitted. The applicant did submit a completed request using the CY20 form, which was signed effective 10 January 2021, which was prior to the end point of 12 years on 20 January 2021.

b. The applicant's request for payment of CP in a combat tax exclusion area of Iraq 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-6 with 11 years of service for pay on 10 January 2021. The control number needs to be changed to reflect CP2101001.

c. If the Board grants administrative relief, the payment would be based on the pay grade of E-6 with 11 years for pay purpose from the 2021 pay scale ($\$3,606.90 \times 4.0$ (Multiplier) = $\$15,531.60$). No taxes should be withheld due to assignment in Iraq, which is a designated combat tax exclusion area.

4. The applicant was provided with a copy of this advisory opinion to give him an opportunity to respond. 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, while the applicant took timely action to submit a BRS CP request, the request was not processed to completion. Based on a preponderance of the evidence, the Board determined the

applicant's record should be corrected to show the applicable BRS CP request form was completed and approved prior to the applicant completing his 12th year of service and assigned the control number specified by the advisory official. As a result of this correction, the applicant should be paid BRS CP in accordance with the guidance provided in the advisory opinion.

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 the applicable BRS CP request form was completed and approved prior to the applicant completing his 12th year of service and assigned the control number specified by the advisory official. As a result of this correction, the applicant should be paid BRS CP in accordance with the guidance provided in the advisory opinion.

8/18/2024

X

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:

1. 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.

2. 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//