

IN THE CASE OF: [REDACTED]

BOARD DATE: 27 March 2024

DOCKET NUMBER: AR20230007855

APPLICANT REQUESTS: in effect, an exception to policy for payment of Continuation Pay in the U.S. Army Reserve for opting into the Blended Retirement System (BRS) even though his paperwork was submitted after his 12th year anniversary.

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

- DD Form 149 (Application for Correction of Military Record)
- USAR Form 26-R (pay Document Transmittal Letter)
- Request for Continuation Pay, October 2022
- Authorized Signature Form and Assumption of Command Order
- Personnel Action Packet List - Request for Continuation Pay (Blended Retirement System) (TPU and IMA)
- September 2021 Leave and Earnings Statement
- Adjustment Certification Worksheet
- Chronological Statement of Retirement Points

FACTS:

1. The applicant states he was not aware of the Blended Retirement System when the opportunity to enroll was possible. He was informed of his eligibility on 3 April 2022, but was unaware there was a time frame to submit this documentation until he was counseled by his Commander. During this period, he was in his eligibility window to enroll based on being under the retirement point qualification for reservist Soldiers. Due to not understanding the application window or even being aware of it, he is requesting enrollment into BRS-CP outside the eligibility window. The original documentation has been submitted along with an ETP (exception to policy) packet. This process started in March of 2022, and this has been an ongoing issue for over a year and yet no one has any answers for him on what to do to correct this. He was told to take different avenues of approach and it keeps getting kicked back to him with a different channel to go through or more forms to complete. With that, he is requesting authorization to receive late payment through the BRS-CP program.

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

a. He enlisted in the Army National Guard (ARNG) on 16 June 2009. He entered active duty for training from 8 September 2009 to 16 December 2009 and completed training for award of military occupational specialty 11B, Infantryman. His PEBD (pay entry basic date) is established as 8 September 2009.

b. He was honorably discharged from the ARNG on 14 June 2015 after competing 6 years of ARNG service and he was transferred to the U.S. Army Reserve Control Group to complete his remaining service obligations (of 2 years).

c. He enlisted in the U.S. Army Reserve for 6 years on 23 September 2018. He was promoted to staff sergeant/E-6 in the U.S. Army Reserve on 1 November 2019.

d. The applicant reached his 12th year of service on 8 September 2021.

3. He provides a Request for Continuation Pay – Blended Retirement System, dated and signed by the applicant on 14 September 2022. He requested 4 times monthly base pay to be paid in one single lump sum payment. The Certifying Official signed the form on 18 October 2022 and the approving official signed it on 19 October 2022.

4. The Army G-1 provided an advisory opinion on 25 October 2023 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, 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. The G-1 advisory official stated:

a. After careful review of the information provided, this office does not support the applicant's request due to the failure to meet the 4-year additional service obligation requirement effective the date of CP request of 14 September 2022. The applicant's request for payment of CP is required to meet the 4 year additional service obligation requirement referenced in 1.c. It is a mandatory requirement, of which the supported documentation provided in the claim reflects an expiration of term of service date of 23 September 2024.

b. The applicant's claim will be reconsidered if reenlistment or extension documentation is provided which supports the 4-year additional service obligation requirement.

5. The applicant was provided with a copy of this advisory opinion to give him an opportunity to provide a rebuttal and/or additional documents. He did not respond.

6. The applicant’s service records show he reenlisted indefinitely in the U.S. Army Reserve on 7 December 2023.

BOARD DISCUSSION:

1. 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 Office of the Deputy Chief of Staff G-1 – Compensation and Entitlements Division, the Board concurred with the advising official finding the applicant failed to meet the 4-year additional service obligation requirement effective the date of CP request of 14 September 2022. As noted by the opine, there is a mandatory requirement to meet the 4-year additional service obligation requirement referenced in 1.c.

2. The Board determined there is insufficient evidence to warrant an exception to policy for payment of Continuation Pay in the U.S. Army Reserve for opting into the Blended Retirement System (BRS) even though his paperwork was submitted after his 12th year anniversary. The Board agreed, based on the advising opine and evidence within the applicant’s record, relief is denied.

BOARD VOTE:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
:	:	:	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.

4/8/2024

X

[Redacted Signature]

CHAIRPERSON

[Redacted Name]

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//