

IN THE CASE OF: [REDACTED]

BOARD DATE: 10 April 2024

DOCKET NUMBER: AR20230007926

APPLICANT REQUESTS: in effect, an exception to policy to apply for 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)
- Memorandum - Subject: BRS CP - Calendar Year 2023 (CY23), 7 March 2023

FACTS:

1. The applicant states that the BRS CP guidance was published after her 12th year of time-in-service dated 29 October 2022. Therefore, making her miss out on the opportunity to apply for the benefit. The Letter of Instruction was published on 7 March 2023. The National Guard Bureau's guidance was for Soldiers to submit a request to the Army Board for Correction of Military Records to receive payment.

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

a. She enlisted in the [REDACTED] Army National Guard ([REDACTED] ARNG) for 6 years on 29 October 2010.

b. DA Forms 4836 (Oath of Extension of Enlistment or Reenlistment) show the applicant's Pay Entry Basic Date (PEBD) as 29 October 2010 and she extended in the [REDACTED] ARNG on:

- 26 June 2016 – 2 years
- 8 April 2017 – 6 months
- 27 April 2019 – 2 years
- 23 January 2021 – 2 years
- 3 August 2022 – 6 years

c. NGB Form 23A (ARNG Current Annual Statement) prepared on 29 October 2023 shows in pertinent, she earned a total of 13 years creditable service for Retired pay.

d. Her record contains a Personnel Qualification Record which shows her PEBD as 29 October 2010.

e. She completed 12 years of service on 29 October 2022, and her record did not contain a completed CP BRS request form.

3. The applicant provides a copy of Headquarters, [REDACTED] ARNG Memorandum, Subject: BRS CP - CY23, which establishes eligibility, amounts, and additional service obligation requirements for BRS-CP in CY23 as authorized under the provisions of Title 37, USC, Section 356 (CP: Full Thrift Savings Plan (TSP) Members with 8 to 12 years of service). In pertinent part, it states, eligibility is further limited to [REDACTED] ARNG Soldiers with eight (8) and no more than twelve (12) years of service, computed from the Soldier's PEBD.

4. On 25 October 2023, the Office of the Deputy Chief of Staff G-1, Program Analyst, Compensation and Entitlements Division, provided an advisory opinion and did not recommend approval. The advisory official stated:

a. After careful review of the information provided, this office does not recommend approval of the applicant's request for receipt of CP. The key supporting document, the CP application for Calendar Year 22, must be submitted to determine proper eligibility and payment. The CP application is required to be completed in accordance with Army Regulation (AR) 637-1 (Army Compensation and Entitlements Policy), Chapter 18, Paragraph 26.

b. If the applicant resubmits the CP application for CY22 with the key supporting documentation, complete with all certifying and approving official names and signatures, the claim will be reconsidered.

5. On 2 November 2023, the applicant was provided a copy of the G-1 advisory opinion for comment or rebuttal. She did not respond.

#### 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 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 advisory opinion, the Board concurred with the advising official finding the key supporting document, for the Continuation Pay (CP) application for Calendar Year 22, must be submitted to determine proper eligibility and payment. The Board determined based on

regulatory guidance the CP application is required to be completed in accordance with Army Regulation (AR) 637-1 (Army Compensation and Entitlements Policy), Chapter 18, Paragraph 26. The Board determined due to insufficient evidence showing the applicant submitted the necessary documentation for consideration, the Board agreed an exception to policy to apply for Continuation Pay (CP) under the provisions of the Blended Retirement System (BRS) is without merit and denied relief.

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.

4/11/2024

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CHAIRPERSON

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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. AR 15-185 (Army Board for Correction of Military Records (ABCMR)) prescribes the policies and procedures for correction of military records by the Secretary of the Army,

acting through the ABCMR. In pertinent part, it states that the ABCMR begins its consideration of each case with the presumption of administrative regularity. The applicant has the burden of proving an error or injustice by a preponderance of the evidence. The ABCMR will decide cases based on the evidence of record. The ABCMR is not an investigative agency.

2. Department of Defense memorandum dated 27 January 2017 (Implementation of the Blended Retirement System (BRS)), Attachment 1, provides guidance for the implementation of the Uniformed Services' BRS. This memorandum is effective as of 27 January 2017. Unless otherwise stated, the policies contained herein that implement the BRS shall be effective simultaneous with the effective date of the BRS, 1 January 2018. In pertinent part, it states:

a. Paragraph 6b.(3) (Eligibility) provides that, any member of the Reserve Component (RC) of a Uniformed Service who is performing reserve component service as a member of the Ready Reserve or on the Active Status List of the Standby Reserve on 31 December 2017 is covered under the provisions of the BRS, who: (a) Has a date of initial entry into military service (DIEMS)/date of initial entry into uniform service (DIEUS) that is on or before 31 December 2017; and, (b) Is in receipt of basic pay or inactive duty pay under Sections 204 or 206, respectively, of Title 37, USC, on or after 31 December 2017; and, (c) Has accumulated fewer than 4,320 retirement points, in accordance with the provisions of Section 12733 of Title 10, USC, as of that date; and, (d) Elects to enroll in the BRS under provisions outlined in section 9.b. (Procedures for Enrollment.

b. Paragraph 8b.(2) (Continuation Pay) provides that, a Reserve Component member is eligible to receive CP who: (a) Is covered under the BRS; and, (b) Has completed not less than 8 and not more than 12 years of service as computed from that member's PEBD; and, (c) If elected to enroll in the BRS in accordance with section 6.b.(3), as calculated under provisions of Section 12733 of Title 10, USC, did not complete more than 12 years of service as calculated from PEBD prior to enrollment in the BRS. (d) Is a member of the Selected Reserve, or otherwise a member of the Ready Reserve in a status in which the member is eligible to receive basic pay or inactive duty pay, when otherwise eligible in accordance with criteria published by the Secretary concerned as specified in paragraph 8.f.; and, (e) Is eligible to enter into an agreement to serve not less than an additional 3 years in the Selected Reserve.

3. Title 37, USC, Section 356 (CP: Full TSP Members with 8 to 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.

4. AR 637-1 (Army Compensation and Entitlements Policy), paragraph 18–26 (Continuation Pay), states in pertinent part:

a. CP application points, rates, and years of required commitment may vary from year to year or from one military occupational specialty to another, and application criteria will be published annually by the Deputy Assistant Secretary of the Army for Military Personnel and Quality of Life. CP is not automatic, and Soldiers must apply before the established deadline or they will forfeit their eligibility to receive CP.

b. Soldiers must meet the following criteria to qualify for CP: (1) Must be enrolled in BRS. (2) Must be within 180 days of the established application year point (between 8 and 12 years of service) as determined from their PEBD. (3) Must have an approved application no later than the anniversary date of the established application year point as determined from their PEBD.

c. Commanders or designated representatives will — (1) Verify Soldiers requesting CP elected BRS. (2) Assist Soldiers in completing the CP contract and acquiring the appropriate approval prior to Soldier's 8th to 12th year of service as computed from the PEBD (based on year's criteria). Current law does not allow for the acceptance of a CP contract beyond the 12th year of service. (3) Identify and ensure Soldiers eligible for CP submit their requests within the established timelines.

d. Soldiers enrolled in BRS will — (1) Use the approved (CP (BRS)) request as published by Deputy Chief of Staff, G-1 plans and resources to apply for CP. (2) Submit the completed contract to their respective S1 for approval and processing to Finance Officers (FO)/Army Military Pay Officers (AMPO).

e. Personnel office/S1 will — (1) Include the unit identification code in block 3 of the CP contract. Also, complete item 4 of the CP contract with a 9-digit control number prior to forwarding to the FO/AMPO (CP1801001 is an example of such a number). First two characters (CP) represents continuation pay. The next two numbers represent the fiscal year the CP contract is approved. The fourth and fifth numbers represents the month and the last three numbers depicts the cumulative number(s) of CP contracts processed by the assigned unit for a particular month. (2) Forward the CP contract to the FO/AMPO within 7 duty days in accordance with established procedures to finance for payment. (3) Process the CP contract for filing in Interactive Personnel Electronic Records Management System under the service and finance folders.

//NOTHING FOLLOWS//