

IN THE CASE OF: ██████████

BOARD DATE: 11 April 2024

DOCKET NUMBER: AR20230007947

APPLICANT REQUESTS: retroactive entitlement to Blended Retirement System (BRS) Continuation Pay (CP).

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

- DD Form 149 (Application for Correction of Military Record)
- Email correspondence

FACTS:

1. The applicant states, in pertinent part, he is currently at more than 10 years of service but less than 12 years of service until 10 June 2023. His Pay Entry Basic Date (PEBD) is 10 June 2011. From January 2016 to May 2022, he was serving in the Individual Ready Reserve (IRR) and in a residential status completing a master's degree. He had no working Common Access Card (CAC) and only received military identification in 2018. Upon coming back to the U.S. Army Reserve (USAR) on 25 May 2022, he was mis-informed that there would be a 6-month window to elect BRS; instead, it was only 30 days.

2. A review of the applicant's available service record reflects the following:

a. On 11 January 2008, he enlisted as a Cadet with the Central Washington University Reserve Officers' Training Corps (ROTC).

b. On 21 April 2011, Headquarters, United States Army Cadet Command issued Orders Number 111-031-A-6159 ordering him to active duty upon acceptance of his appointment in the USAR, effective 14 April 2012.

c. On 10 June 2011:

(1) Headquarters, Eight Brigade, U.S. Army Cadet Command issued a Memorandum for Appointment as a Reserve Commissioned Officer of the Army.

(2) He was appointed as a Reserve commissioned officer and executed an oath of office.

d. On 26 September 2011, Headquarters, United States Army Cadet Command issued Orders Number 269-008 amending Orders Number 111-031-A-6159 changing his reporting date from 14 April 2012 to 13 March 2012.

e. On 8 November 2015, Headquarters III Corps and Fort Hood issued Orders Number 312-0101 reassigning him to the U.S. Army transition point for transition processing and honorable release from active duty, effective 13 January 2016.

f. DD Form 214 (Certificate of Release or Discharge from Active Duty), ending 13 January 2016 reflects an honorable release from active duty for completion of required active service and transfer to the USAR Control Group (IRR). Item 12 (Record of Service) shows service from 3 January 2012 to 13 January 2016 for a net active service this period of 4 years and 11 days.

g. On 14 January 2016, the U.S. Army Human Resources Command (HRC) issued a Memorandum for Appointment as a Reserve Commissioned Officer of the Army.

h. DA Form 5016 (Retirement Accounting Statement), dated 9 February 2024 reflects his PEBD as 10 June 2011.

i. He continues service with the USAR.

3. The applicant provides email correspondence with his unit Retirement Services Office regarding his request for CP BRS and the recommendation to contact the Army Review Boards Agency.

4. On 24 January 2024, in the processing of this case, the Office of the Deputy Chief of Staff, G-1, Program Analyst, Compensation and Entitlements Division, provided an advisory opinion recommending disapproval of the applicant's request stating, in effect, after careful review of the information provided, they do not support the request for CP. He does not meet the minimum eligibility required of BRS enrollment; additionally, he must have a completed, certified, and approved calendar year 2023 application to support a claim of CP.

5. On 25 January 2024, the applicant was provided with a copy of the advisory opinion to provide a response.

6. On 8 February 2024, he provided a rebuttal to the advisory opinion, stating in effect, he believes the minimum eligibility requirement of BRS enrollment and applying for CP is now complete and requests exception to policy for enrollment and approval. On

19 May 2023, he learned the BRS enrollment timeframe for personnel entering the IRR required completion within 30 days to enroll for BRS and directly impacted CP. He entered the USAR on 25 May 2022, during the calendar year 2022. No regularly scheduled Battle Assembly existed during the month of June 2022 for his assigned unit. The 30-day timeframe for IRR personnel to enroll for BRS was reached on 25 June 2022. On 5 June 2023, he completed the CP request form, and it was signed, certified, and approved by his assigned unit commander. In conjunction with this rebuttal, he provided the completed request for CP packet as supporting evidence. The documents are as follows:

- Email correspondence
- College Transcript
- Memorandum, Subject: Fiscal Year 2022 Battle Assembly dates and Annual Training dates, dated 8 April 2022
- DA Form 4836 (Developmental Counseling Form)
- DD Form 214, ending 13 January 2016
- Individual Ready Reserve (IRR) Statement of Understanding (SOU)
- Orders Number 312-0101, dated 8 November 2015
- Officer/Warrant Officer Affiliation Bonus Written Agreement, dated 29 April 2022
- DA Form 4651 (Request for Reserve Component Assignment or Attachment), dated 29 April 2022
- CP (BRS) Request showing he requested CP BRS at 4 times his monthly basic pay to be paid in a lump sum in return for four years of additional service obligation with approval and certifying official signatures completed on 5 June 2023

#### BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, a majority of the Board found relief is warranted.
2. A majority of the Board found it likely that the applicant was not properly counseled on the requirements for BRS enrollment given the fact that he was in the IRR when the program was initiated. Later, this further prevented him from benefitting from BRS CP. A majority of the Board determined the applicant's record should be corrected to show he opted into the BRS in his first month of eligibility and later submitted a request for BRS CP prior to completing his 12th year of service.
3. The member in the minority concurred with the conclusion of the advisory official that the evidence shows the applicant does not meet the minimum eligibility required of BRS enrollment and therefore is also ineligible for BRS CP.

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 he opted into the BRS during his first month of eligibility and later submitted a request for BRS CP prior to completing his 12th year of service.

8/27/2024

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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. Title 37 United States Code (USC), section 356 (CP) states:

a. The Secretary concerned shall pay CP under subsection (a) to a full Thrift Savings Plan (TSP) member when the member has completed not less than 8 and not more than 12 years of service in a uniformed service. Enters into an agreement with the Secretary to serve for not less than three additional years of obligated service. A full TSP member may elect to receive CP in a lump sum or in a series of not more than four payments.

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 Reserve Component, if the member is performing AGR duty (as defined in Title 10, USC, section 101(d)(6)), shall not be less than 2.5 times the member's monthly basic pay.

c. The maximum amount the Secretary concerned may pay a member under this section is — 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.

2. Public Law 114-92, National Defense Authorization Action (NDAA) for Fiscal Year (FY 2016, section 634 (CP for Full Thrift Savings Plan (TSP) Member with 12-Years of Service), (a) CP, 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

a. Amount, the amount of CP payable to a full TSP member under subsection (a) shall be the amount that is equal to 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 (not to exceed 13-months) as the Secretary concerned shall specify in the agreement of the member under subsection (a)

b. Timing of Payment, the Secretary concerned shall pay CP under subsection (a) to a full TSP member when the member completes 12 years of service. If the Secretary concerned also provides CP under subsection (c) to the member, that CP shall be provided when the member completes 12 years of service.

3. Deputy Secretary of Defense Memorandum dated 27 January 2017, Subject: Implementation of the BRS, implements guidance for the BRS for the Uniformed Services, which was authorized in Public Law 114-92 section 631 through 635 of the National Defense Authorization Act (NDAA) for Fiscal Year 2016. Members of the Uniformed Service are covered under the provisions of the BRS who served in a Uniformed Service for fewer than 12-years as calculated from their PEBD.

4. Army Regulation 637-1 (Army Compensation and Entitlements Policy), provides Department of the Army (DA) policies for entitlements and collections of pay and allowances for active duty Soldiers. Paragraph 18-26 (Continuation Pay), the BRS provides for CP in exchange for additional service obligation by Soldiers when they reach between the 8 and 12-years point in their career. Soldiers will receive a minimum of 2.5 times base pay for Regular component and .5 times base pay for Reserve components if they commit to a minimum of 3-years of additional service.

//NOTHING FOLLOWS//