

IN THE CASE OF: ██████████

BOARD DATE: 6 March 2024

DOCKET NUMBER: AR20230008300

APPLICANT REQUESTS:

- Exception to Policy (ETP) for reinstatement of expired Household Goods (HHG) transportation and travel entitlements
- a personal appearance before the Board via video/telephone

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

- DD Form 149 (Application for Correction of Military Record)
- Orders Number 119-0250, 28 April 2020
- Back page of DD Form 1797 (Personnel Property Counseling Checklist), 28 August 2020
- DA Form 137-2 (Installation Clearance Record), 4 September 2020
- DD Form 214 (Certificate of Release or Discharge from Active Duty), 31 October 2020
- Department of Veterans Affairs (VA) rating decision, 16 September 2021
- Retirement and clearance information documents
- Defense Military Pay Office Information Finance Separation Pay Brief document
- Fort Bragg Transportation Office document

FACTS:

1. The applicant states:

a. He is requesting an ETP extension for Joint Travel Regulation (JTR) (051003-11) Time Limitations for travel to Home of Selection (HOS), Retirement Permanent Change of Station. He indicated post-traumatic stress disorder (PTSD) and other mental health issues/conditions are related to his request.

b. Although he failed to make a timely request to extend his HOS travel, there were several mitigating circumstances that led to the failure. During his initial travel briefing he was on narcotics due to a foot surgery, then for his final retirement briefing he was again on narcotics due to a bi-lateral hip replacement. He has a 100 percent total and permanent disability rating with PTSD, memory issues, and severe migraines.

c. He failed to recognize that he missed the window by 5 months on his initial request, and then again at 17 months. He is still inside the 5-year extension window if he had made the requests on time. He is unemployed due to his PTSD/anxiety, and migraines and does not have the financial means to make a HOS move to Alabama from Fort Bragg/Fayetteville. He has friends and family who will help him at his HOS with daily living and employment if he makes the move.

2. A review of the applicant's official records show the following:

a. With prior service in the Regular Army and Reserve Component, he enlisted in the Regular Army on 29 August 2007. He served continuously through multiple reenlistments and extensions.

b. Orders Number 79-67 published the U.S. Army Human Resources Command promoted the applicant to rank/grade of sergeant first class/E-7 with an effective date of rank of 1 April 2017.

c. On 28 April 2020, the Installation Management Command, Headquarters, U.S. Army Garrison Fort Bragg published Orders Number 119-0250, which retired the applicant, effective 31 October 2020 and placed him on the retired list, effective 1 November 2020. In pertinent part, the additional instructions state, he had dependents and must attend a Transportation Briefing given by the Personal Property Shipping Office prior to arranging shipment/storage of his personal property.

d. On 31 October 2020, he was retired. DD Form 214 shows he completed 13 years, 2 months, and 2 days net active service this period with 6 years, 10 months, and 9 days total prior active service. Item 18 (Remarks) shows he served in Iraq and Afghanistan.

3. In support of his case, the applicant provides:

a. Back page of DD Form 1797 dated 28 August 2020, which shows he confirmed receiving a face to face or group counseling on his retirement personal property entitlement to his HOS and understood his entitlement to ship at government expense expired 1 year from his retirement date.

b. DA Form 137-2 dated 4 September 2020, showing he cleared the installation (Fort Bragg).

c. VA rating decision dated 16 September 2021, which shows in pertinent part, he received a 100 percent total and permanent disability rating, and was rated 100 percent service connected for PTSD based on anxiety, impaired judgement, and mild memory loss.

d. Retirement and clearance information documents, which provided information related to retirement pay inquiries, final pay deposit, and travel settlement.

e. Defense Military Pay Office Information Finance Separation Pay Brief document, which provided the location and required documents for the separation briefing.

f. Fort Bragg Transportation Office documents showing the locations, websites, and required documents for scheduling personal property shipping, transportation briefings, and how to reach customer service points of contact.

4. On 20 September 2023, the Office of the Deputy Chief of Staff G-4, Chief, Transportation Policy Division, provided an advisory opinion for this case and recommended approval. The advisory official stated:

a. The Joint Travel Regulations (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. The following JTR requirement was in effect for all retirement orders with a retirement date prior to 24 June 2022. JTR paragraph 051003-11, Time Limitations for Travel to the 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.

c. The applicant was required to request an annual travel and transportation extension from the Fort Liberty, NC, Transportation Office prior to his 1-year retirement anniversary date of 31 October 2021. He retired on 31 October 2020 and stated that he submitted an extension request to the Fort Liberty, NC, Transportation Office in March 2022, approximately 5 months late, but no longer has access to that the e-mail account to provide evidence of that correspondence. The applicant also provided medical evidence to the Army Review Boards Agency from the Department of Veterans Affairs of a 16 September 2021 disability rating showing PTSD which included forgetting directions and recent events.

d. This office recommends that the Board approve the extension of the applicant's travel and transportation authorization at Government expense to his HOS until 31 October 2024.

5. On 22 September 2023, the applicant was provided a copy of the G-4 advisory opinion to allow for comments and/or rebuttal. He 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 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 the Office of the Deputy Chief of Staff G-4, Chief, Transportation Policy Division advisory opinion, the Board concurred with the advising official recommendation for exception to policy (ETP) for reinstatement of expired Household Goods (HHG) transportation and travel entitlements. The Board agreed, based on the evidence provided and the advisory opine, there is sufficient evidence to grant relief.

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 to show the applicant is authorized an exception to policy (ETP) for reinstatement of expired Household Goods (HHG) transportation and travel entitlements.



 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. Army Regulation 15-185 (Army Board for Correction of Military Records (ABCMR)), states that the ABCMR begins its consideration of each case with the presumption of administrative regularity. It will decide cases based on the evidence of record and it is not an investigative body. The applicant has the burden of proving an error or injustice by a preponderance of the evidence. Paragraph 2–11 states that applicants do not have a right to a hearing before the ABCMR. The Director or the ABCMR may grant a formal hearing whenever justice requires.
2. JTR section 052013 (HHG Transportation in Connection with Retirement), in effect at the time, states in pertinent part:
 - a. Paragraph B (Time Limits) – HHG must be turned over for transportation within 1 year following active duty termination, except as in Table 5-33.
 - b. Paragraph C (Other Deserving Cases) – Time-limit extensions may be authorized or approved through the Secretarial Process when:
 - (1) An unexpected event beyond the Service member's control occurs that prevents him or her from moving to the HOS within the specified time limit.
 - (2) The extension is in the Service's best interest or to the Service member's benefit, and it is not more costly or adverse to the Service. This includes cases where the 1-year time limit has already been extended due to hospitalization, medical treatment, education, or training.
 - c. Time-limit extensions may be authorized or approved only for the specific period the Service member anticipates is needed to complete the move. If, at the expiration of this extension period, additional time is required, the Service member may request an additional extension through the Secretarial Process, explaining the reasons for the extension. An additional authorized period for a specific time may then be authorized or approved through the Secretarial Process. Time-limit extensions are not authorized for any reason for more than 6 years from the date of separation, release from active duty, or retirement. Also see paragraph 051003-I for restrictions on time-limit extensions.
3. Title 10, USC, section 1552 states the Secretary concerned may pay, from applicable current appropriations, a claim for the loss of pay, allowances, compensation, emoluments, or other pecuniary benefits, or for the repayment of a fine or forfeiture, if, as a result of correcting a record under this section, the amount is found to be due the claimant on account of his or another's service in the Army.

//NOTHING FOLLOWS//