

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 12 June 2024

DOCKET NUMBER: AR20230010071

APPLICANT REQUESTS: an exception to policy resulting in entitlement to Continuation Pay (CP) under the Blended Retirement System (BRS).

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

- DD Form 149 (Application for Correction of Military Record)
- Email communication
- Leave and Earnings Statements (LES)
- Request for CP (BRS), 14 March 2023
- DA Form 4856 (Developmental Counseling Form), 21 March 2023
- DA Form 7776 (Army Reserve Reenlistment Eligibility Worksheet), 21 March 2023
- DA Form 4836 (Oath of Extension of Enlistment or Reenlistment), 21 March 2023
- DD Form 577 (Appointment/Termination Record – Authorized Signature), 17 April 2023
- Memorandum – Subject: Letter of Lateness, 4 June 2023

FACTS:

1. The applicant states in pertinent part that on 14 March 2023, he contacted a U.S. Army Reserve (USAR) Career Counselor regarding an enlistment contract extension in association with being entitled to CP. He was advised in order to receive CP he must be enrolled in the BRS and have between 10-12 years of service. Prior to extending his enlistment he submitted copies of his LES. He contests that a member of the Reserve Personnel Action Center verified that he met all requirements. After receiving verification, he elected to extend his current enlistment and submitted all required documents for pay. He was then notified that he did not meet the requirements for CP despite the verification that had been performed beforehand.

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

a. On 11 August 1999, the applicant enlisted in the USAR to serve as a 91K (Medical Laboratory Specialist) for 8-years.

b. On 18 August 2003, Headquarters, 801st Combat Support Hospital, issued Orders Number 230-03 announcing the applicant's promotion to the rank/grade of sergeant (SGT)/E-5, effective 31 July 2003.

c. On 14 August 2007, the U.S. Army Human Resources Command (AHRC) issued Orders Number D-08-717287 honorably discharging the applicant from the USAR, effective 14 August 2007.

d. On 11 September 2018, the applicant enlisted in the USAR for 6-years.

e. On 14 March 2023, the applicant completed a Request for CP (BRS) Form electing to receive CP at a rate of 4 times his monthly basic pay to be paid in a lump sum. The applicant agreed to serve an Additional Obligated Service (AOS) of 4-years commencing from 14 March 2023 in accordance with the BRS CP - Calendar Year 2023 (CY23) dated 2 March 2023. Item 5 (Pay Entry Basic Date (PEBD)) reflects 7 September 2010. The form is endorsed by the applicant, certifying official, approval authority, and contains a control number.

f. On 21 March 2023, the applicant elected to extend his current enlistment by 3-years. DA Form 4836 completed at the time of this extension reflects a Basic Pay Entry Date (BPED) of 7 September 2010.

3. The applicant provides the following a:

a. Email communication reflective of communication concerning the applicant's entitlement to BRS. On 14 March 2023, the applicant was advised that a review of his LES was conducted and verified that he was contributing to the BRS and had between 10-12 years of service. On 28 June 2023, the applicant was advised that an ETP was needed in order process his CP request. However, this could not be processed at their level and would need to be submitted to the Board.

b. LES reflective of the applicant's pay and entitlements during the months of February and April 2023. Review of these documents reflect a BPED of 7 September 2010 and 12 years of service with a 10 September 2027 expiration term service date but was void of a retirement plan.

c. DA Form 4856 dated 21 March 2023, reflective of the applicant being counseled by a USAR Career Counselor concerning his 3-year enlistment extension which would result in a 10 September 2027 expiration term service date.

d. DA Form 7776 dated 21 March 2023, reflective of administrative information pertaining to the applicant's eligibility for reenlistment. Section 4 (Determine Soldier's Total Military Service) reflects a PEBD of 7 September 2010 minus the scheduled

reenlistment date of 21 March 2023, equals 12 years, 6 months, and 14 days of time in service. Section 8 reflects that the applicant is disqualified for reenlistment, but he may be extended for 3 years. Section 10 (Comments) reflects that the applicant was extending for CP BRS.

e. DD Form 577 dated 17 April 2023, reflective of staff sergeant J\_T\_ being appointed as a certifying officer responsible for verifying a Soldiers eligibility for CP BRS.

f. Memorandum – Subject: Letter of Lateness dated 4 June 2023, reflective of the applicant's initial PEBD being 10 August 1999, which required correction due to his 12-year break in service. After the corrections were made the applicant's adjusted total time in service would reflect 12 years. Due to no fault of the applicant, his request for CP was delayed due to time spent correcting his PEBD.

4. On 6 October 2023, the Department of the Army, Office of the Deputy Chief of Staff, G-1, Program Analyst, Compensation and Entitlements Division, provided an advisory opinion recommending approval of the applicant's request in the interest of fairness and equity. The applicant's request for payment of CP should be made based on the date he would have been otherwise qualified, specifically, in the pay grade of E-5 with 12 years of service for pay on 7 September 2022. If the Board grants administrative relief, the payment would be based on the pay grade of E-5 with 12 years for pay purpose from the 2022 pay scale ( $\$3,704.40 \times 4.0 = \$14,817.60$ , gross entitlement, less applicable federal and state taxes).

5. On 13 October 2023, the applicant was provided with a copy of the advisory opinion and afforded 14 days to provide comments. As of 30 May 2024, the applicant has not responded.

#### 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 Office of the Deputy Chief of Staff – G-1- Compensation and Entitlements Division advisory opinion, the Board concurred with the advising official recommendation for approval finding the applicant was not provided with timely and accurate guidance regarding his application for Continuation Pay. The Board determined in the interest of fairness and equity an exception to policy resulting in entitlement to Continuation Pay (CP) under the Blended Retirement System (BRS) is warranted. Therefore, the Board granted 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 that the evidence presented was 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:

1. showing the applicant was in receipt of a completed continuation pay request prior to the completion of 12 years of service as computed from the PEBD based on the date he would have been otherwise qualified, specifically, in the pay grade of E-5 with 12 years of service for pay on 7 September 2022.
2. payment would be based on the pay grade of E-5 with 12 years for pay purpose from the 2022 pay scale ( $\$3,704.40 \times 4.0 = \$14,817.60$ , gross entitlement, less applicable federal and state taxes).

█

█ █

---

█

█

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:

Title 37 United States Code (USC), section 356 (Continuation Pay) provides:

a. The Secretary concerned shall pay CP 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. Enters into an agreement with the Secretary to serve for not less than four 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. The multiple for a full TSP member who is a member of a Reserve Component not performing AGR 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.

c. In exchange for the CP described in paragraph 5, Soldiers must agree to serve for four years of additional service in the component in which they are serving at the time CP is approved. The service obligation commences upon approval of the CP request.

//NOTHING FOLLOWS//