

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 8 May 2024

DOCKET NUMBER: AR20230010563

APPLICANT REQUESTS: correction of her records to show she received service credit for 20-years of service and adjustment of her retired pay under the Temporary Early Retirement Authority (TERA) Public and Community Service (PACS) Program at age 62.

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

- DD Form 149 (Application for Correction of Military Record)
- Self-authored statement
- DD Form 214 (Certificate of Release or Discharge from Active Duty) service ending 30 April 1997
- DD Form 2581 (Operation Transition Employer Registration), 22 September 1998
- DD form 2581-1 (Public and Community Service Organization Validation), 22 September 1998
- DD Form 2676 (Validation of Public or Community Service Employment), 22 September 1998
- Department of Defense (DoD) Manpower Data Center letter, 13 October 1998
- DD Form 2676, 8 January 1999
- DoD Manpower Data Center letter, 21 April 1999
- DD Form 2581, 29 June 1999
- DD Form 2581-1, 29 June 1999
- DD Form 2676, 29 June 1999
- DoD Manpower Data Center letter, 3 September 1999
- DD Form 2676, 10 December 1999

FACTS:

1. The applicant did not file within the 3-year time frame provided in Title 10, U.S. Code (USC), section 1552(b); however, the Army Board for Correction of Military Records (ABCMR) conducted a substantive review of this case and determined it is in the interest of justice to excuse the applicant's failure to timely file.

2. The applicant states in effect, she requests correction of her records to show she received service credit at 20-years of service and adjustment of her retired pay under the TERA PACS Program at age 62. She was employed for over 2-years with a PACS registered organization which she submitted the required documents annually until she reached the time, she would have had 20-years of service if she had not retired.

3. A review of the applicant's service record shows:

a. On 2 November 1979, the applicant enlisted in the U.S. Army Reserve (USAR) Delayed Entry Program (DEP). On 13 August 1980, the applicant was discharged from the USAR DEP and enlisted in the Regular Army (RA). The applicant had continuous service through extensions and reenlistments.

b. On 17 January 1997, Orders Number 017-00211, issued by Headquarters Fort McPherson, the applicant was assigned to the U.S. Army Transition Center, effective 30 April 1997. On 1 May 1997, the applicant was placed on the Retired List with 16-years, 8-months, and 18-days for a voluntary retirement.

c. On 30 April 1997, the applicant was honorably retired from active duty with a voluntary early retirement. DD Form 214 shows the applicant completed 16-years, 8-months, and 18-days of active service. It also shows in item 18 (Remarks): the member retired as provided by Title 10 United States Code (USC), section 4403 or Fiscal Year 1993 National Defense Authorization Act (Public Law (PL) 102-484) and may qualify for a re-computation of retired pay at age 62 (Title 10 USC, section 4464 or the same law).

4. The applicant provides:

a. DD Form 2581 dated 22 September 1998 shows the applicant PACS employer was Mental Health Mental Retardation Authority (MHMRA) of Harris County.

b. DD Form 2581-1 dated 22 September 1998 shows MHMRA of Harris County provided social service and public health care.

c. DD Form 2676 dated 22 September 1998 shows the applicant was employed effective 20 April 1997 with the MHMRA of Harris County.

d. DoD Manpower Data Center letter dated 13 October 1998 shows the receipt of the applicant's DD Form 2676 for her employment with the MHMRA of Harris County. The employment verification shows the applicant accrued 1-year and 5-months of additional military retirement credit. As long as she was continuously employed by MHMRA of Harris County she was required to resubmit employment verification on her next retirement anniversary date.

e. DD Form 2676 date 8 January 1999 shows the applicant was employed with MHMRA of Harris County during the period of 20 April 1997 through 8 January 1999.

f. DOD Manpower Data Center letter dated 21 April 1999 shows the receipt of the applicant's DD Form 2676 for her employment with the MHMRA of Harris County which ended on 8 January 1999, and to date she had 1 year, 8 months, and 18 days. It also stated her record shown her enhanced retirement qualification period would end on 13 August 2000.

g. DD Form 2581 dated 29 June 1999 shows the applicant PACS employer was the City of Texarkana, TX.

h. DD Form 2581-1 dated 29 June 1999 shows the City of Texarkana, TX provided public safety.

i. DD Form 2676 dated 29 June 1999 shows the applicant was employed with the City of Texarkana, TX, on 1 June 1999.

j. DoD Manpower Data Center letter dated 3 September 1999 shows the receipt of the applicant's DD Form 2676 which enabled the establishment of her employment account and begin to accrue time towards additional retirement credit.

k. DD Form 2676 dated 10 December 1999 shows the applicant was employed with the City of Texarkana, TX during the period of 1 June through 11 November 1999.

5. On 27 November 2023, in the processing of this case, the Office of the Deputy Chief of Staff G-1, provided an advisory opinion regarding the applicant's request for the re-computation of her retired pay under TEAR PACS employment. The advisory official stated this office recommended approval of the applicant's request for the re-computation of her retired pay at age 62 under the provision of Title 10 USC, section 4464 of PL 102-484. The applicant submitted the required DD Forms 2676 which reflected employment by various qualifying PACS organizations during the period of 1 May 1997 through 8 January 1999 and 1 June 1999 through 11 November 1999. The total period of employment that met the criteria was 2-years, 1-month, and 19-days. Her retirement date should be adjusted to allow for the military service credit of 2-years, 1-month, and 19-days upon attainment of 62-years of age.

6. On 7 December 2023, the Army Review Boards Agency, Case Management Division, provided the applicant the advisory opinion for review and comment. She did not respond.

BOARD DISCUSSION:

1. 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 Pay advisory opinion, the Board concurred with the advising official recommendation for approval finding sufficient evidence to support re-computation of the applicant's retired pay under TEAR PACS employment at age 62 under the provision of Title 10 USC, section 4464 of PL 102-484.

2. The Board noted the applicant submitted the required DD Forms 2676 which reflected employment by various qualifying PACS organizations during the period of 1 May 1997 through 8 January 1999 and 1 June 1999 through 11 November 1999. The total period of employment that met the criteria was 2-years, 1-month, and 19-days. The Board determined the applicant's retirement date should be adjusted to allow for the military service credit of 2-years, 1-month, and 19-days upon attainment of 62-years of age. Based on this, 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 showing the applicant qualified for an adjustment to her retirement under TEAR PACS employment, re-computation of her retired pay at age 62 under the provision of Title 10 USC, section 4464 of PL 102-484. Applicant's retirement date should be adjusted to allow for the military service credit of 2-years, 1-month, and 19-days upon attainment of 62-years of age.

[REDACTED]

[REDACTED] [REDACTED]

[REDACTED]

[REDACTED]

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 10, USC, section 1552(b), provides that applications for correction of military records must be filed within 3-years after discovery of the alleged error or injustice. This provision of law also allows the ABCMR to excuse an applicant's failure to timely file within the 3-year statute of limitations if the ABCMR determines it would be in the interest of justice to do so.
2. Public Law 102-484 (National Defense Authorization Act for FY 1993), provided the Secretary of Defense with a temporary additional force management tool to assist with the drawdown of active military forces. Subsection 4403(f) of the Act directed the use of a subaccount within the officer and enlisted budget activities of the Active Military Personnel appropriation for retirement payments to members participating in the TERA program.
3. Department of Defense Instruction (DODI) 1332.37 (Program to Encourage Public and Community Service Employment), in effect at the time, encourage and assist separating service members, Service members retiring with 20 or more years of service, DOD civilian personnel leaving the Government, and spouses to enter public and

community service employment. Encourage and assist Service members requesting retirement with fewer than 20-years of service to register for public and community service employment.

a. Paragraph 4.2, Service members determined to be eligible by the Secretary of their military department for, and who do request retirement with fewer than 20-years of service are required by Public Law 102-484, Section 4403 to register for public and community service employment. This registration normally shall take place not earlier than 9- days before retirement or terminal/transition leave. In order to have their military retired pay and Survivor Benefit Plan base amount (if applicable) recomputed in accordance with DODI 1340.19, early retirees must be employed with a DOD registered public and community service organization that provides the services.

b. Paragraph 6.3.5, DOD approved PACS employment qualifies the Service member who is retired under Public Law 102-484, Section 4403 or Public Law 103-160 for increased retired pay effective on the first day of the first month beginning after the date on which the member or former member attains 62-years of age. The former service member must have worked in DOD approved PACS employment between the date of early retirement and the date in which he or she would have attained 20-years of creditable service for computing retired pay and have retired on or after 23 October 1992 and before 1 October 1999.

c. Paragraph E1.1.4, Public and Community Service Organization. Government or private organizations that provide or coordinate the provision of the following services:

- Elementary, secondary, or post-secondary school teaching
- Administration
- Support of teachers or school administrators
- Law enforcement
- Public healthcare
- Social services
- Public safety
- Emergency relief
- Public housing
- Conservation
- Environment
- Job training
- Work in a Federal, state or local government organization in which provides or coordinates services listed above
- Other PACS consistent with or related to services listed above

d. Retirees were required to document their employment using DD Form 2676 (Validation for Public or Community Service) and submit the form to the Defense Manpower Data Center (DMDC). The timeline to submit PACS applications to the

DMDC ended 1-year to the day after the member's ERQP expired. DMDC is no longer authorized to accept any new PACS applications. The program officially expired in August 2008 (1-year after the last official TERA recipient's ERQP expired).

4. DoDI 1340.19 (Certification of Public and Community Service Employment of Military Retirees) dated 17 November 93, states It is DoD policy that a retiree shall receive military service credit for all qualifying periods of employment during the enhanced retirement qualification period. During retirement processing, the Military Services shall provide each retiree a copy of DD Form 2676, Validation of Public or Community Service Employment, and explain the reporting requirements and procedures for enhanced retirement credit as described in this Instruction. All reporting shall be completed by the retiree within one year of the end of the enhanced retirement qualification period.

//NOTHING FOLLOWS//