

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 7 June 2024

DOCKET NUMBER: AR20230010826

APPLICANT REQUESTS: to be paid for 45 days of Post Deployment/Mobilization Respite Absence (PDMRA).

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

- DD Form 149 (Application for Correction of Military Record)
- Five DD Forms 214 (Certificate of Release or Discharge from Active Duty), for the period ending 23 December 2004, 8 June 2007, 9 March 2009, 14 October 2011, and 25 December 2012
- State of OH Memorandum, Subject: Shadow Area PDMRA Benefit

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 he was not paid during the time the program was authorized and its implementation due to no fault of his own. The program was announced by the Secretary of Defense on 19 January 2007 but was not implemented until August of 2007.
3. A review of the applicant's service record shows:
 - a. On 15 December 2000, the applicant enlisted in the Army National Guard (ARNG).
 - b. He was ordered to active duty in support of Operation Enduring Freedom effective 10 February 2004 and was honorably released from active duty on 23 December 2004. His DD Form 214 shows he completed 10 months and 14 days of active service.

c. On 11 September 2005, Orders Number 254-919, issued by the State of OH, show the applicant was ordered to active duty for special work, effective 3 September 2005.

d. On 30 September 2005, the applicant was released from active duty. His DD Form 220 (Active Duty Report) shows the applicant completed 28 days of active service in support of Hurricane Katrina.

e. On 28 December 2005, Orders Number 362-156, issued by the State of OH, show the applicant was ordered to active duty in support of Operation Enduring Freedom, effective 7 January 2006.

f. On 8 June 2007, the applicant was honorably released from active duty. His DD Form 214 shows he completed 1 year, 5 months, and 2 days of active service.

g. On 5 December 2007, Orders Number 339-531, issued by the State of OH, show the applicant was ordered to active duty in support of Operation Iraqi Freedom, effective 3 January 2008.

h. On 9 March 2009, the applicant was honorably released from active duty. His DD Form 214 shows he completed 1 year, 2 months, and 7 days of active service. It also shows in item 18: he was ordered to active duty in support of Operation Iraqi Freedom and deployed to Kuwait during the period of 1 April through 7 December 2008. The applicant had PDMRA administrative leave during the period of 13 December 2008 through 29 January 2009.

i. On 26 May 2010, Orders Number 146-046, issued by the State of OH, show the applicant was ordered to Full-Time National Guard Duty for Operational Support, effective 18 June 2010.

j. On 30 September 2010, Orders Number 273-205, issued by the State of OH, show the applicant was ordered to Active Duty for Training (ADT), effective 1 October 2010.

k. On 30 August 2011, Orders Number 242-423, issued by the State of OH, show the applicant was ordered to active duty in support of Operation Enduring Freedom, effective 15 October 2011.

l. On 16 September 2011, Orders Number 259-052, issued by the State of OH, show the applicant was ordered to ADT, effective 1 October 2011.

m. On 14 October 2011, the applicant was honorably released from active duty. His DD Form 214 shows he completed 1 year, 3 months, and 27 days of active service.

n. On 13 February 2012, the State of OH Memorandum, Subject: Shadow Area PDMRA Benefit stated the applicant was eligible to potentially receive Shadow PDMRA compensation. The compensation was because of the delay in implementing the guidance for PDMRA benefits and Soldiers may not have received PDMRA benefits. The date to automatically receive the Shadow PDMRA payment had passed. The applicant must apply to the Army Board for Correction of Military Records for eligibility determination.

o. On 25 December 2012, the applicant was honorably released from active duty. His DD Form 214 shows he completed 1 year, 2 months, and 11 days of active service. It also shows in item 18: he was ordered to active duty in support of Operation Enduring Freedom and deployed to Kuwait and Bahrain during the period of 8 January through 25 September 2012. He took 14 days for PDMRA, 67 days terminal leave and he had zero unused PDMRA days.

p. On 22 March 2013, Orders Number 081-961, issued by the State of OH, show the applicant was ordered to Full-Time National Guard Duty in an Active Guard/Reserve (AGR) status, effective 1 April 2013.

q. On 22 February 2016, Orders Number 053-906, issued by the State of OH, show the applicant was continued in a Full-Time National Guard Duty status in an AGR status, effective 1 April 2016.

r. On 4 February 2022, Orders Number 035-20002, issued by the State of OH, show the applicant was continued in an AGR status, effective 1 April 2022.

s. On 11 May 2023, Orders Number 37-131-0239, issued by the State of OH, show the applicant was ordered to active duty in support of Operation Enduring Freedom, effective 26 May 2023.

t. On 5 April 2024, the applicant was honorably released from active duty. His DD Form 214 shows he completed 10 months and 10 days of active service.

4. On 26 April 2024, in the processing of this case, the National Guard Bureau, provided an advisory opinion regarding the applicant's request for monetary reimbursement for 45 days or more of PDMRA. The advisory opinion stated a partial approval was recommended. A review of the applicant's claim determined he earned 38 days of Shadow PDMRA during the period of active duty in question. The ARNG guidance for PDMRA entitlements due to the government error states ARNG Soldiers who qualified for PDMRA days after the implementation of the program on 19 January 2007 who did not receive all PDMRA days authorized will be authorized a cash payment of \$200.00 for each PDMRA day certified as a government error per

Public Law 112-239, section 605 of the National Defense Authorization Act for Fiscal Year 2013 and Personnel Policy Operational Memorandum 18-012.

5. On 30 April 2024, the Army Review Boards Agency, Case Management Division, provided the applicant the advisory opinion for review and comment. 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 partial relief was warranted. The Board carefully considered the applicant's record of service, documents submitted in support of the petition, and executed a comprehensive review based on law, policy, and regulation. The Board reviewed the advisory opinion provided by the National Guard Bureau finding the applicant earned 38 days of Shadow PDMRA, entitled to a cash payment for each day certified as a government error per Public Law 112-239 section 605 of the National Defense Authorization Act for Fiscal Year 2013.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

: : : GRANT FULL RELIEF

■ ■ ■ GRANT PARTIAL RELIEF

: : : GRANT FORMAL HEARING

: : : DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

1. The Board determined the evidence presented is sufficient to warrant partial relief. As a result, the Board recommends that all Department of the Army records and Army National Guard records of the individual concerned be corrected by showing the applicant is authorized 38 days of PDMRA.

2. The Board further determined that the evidence presented is insufficient to warrant a portion of the requested relief. As a result, the Board recommends denial of so much of the application that pertains to authorizing in excess of 38 days of PDMRA.

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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 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. Department of Defense Instruction (DoDI) 1327.06 (Leave and Liberty Policy and Procedures), establish policy and procedures for leave, liberty (pass), and administrative absences. Post Deployment or Mobilization Respite Absence (PDMRA), administrative absence applies to service members required to deploy or mobilize above DoD rotation frequency thresholds. PDMRA accrual rates for qualifying deployments and mobilizations on or after 19 January 2007, but before 1 October 2011. Active component service members deployed in excess of 12-months during the most recent 36-month period qualify for PDMRA. Reserve component (RC) service members mobilized in excess of 12-months during the most recent 72-month period qualify for PDMRA. Creditable time for RC service members includes mobilizations under sections 12301(a), 12302, or 12304. Mobilization for this purpose includes the day the service member is mobilized through the date the mobilization is terminated. For service members of the RC, computation of creditable time commences 72-months prior to the Service member's mobilization and continues during the deployment. The number of PDMRA days awarded to RC service members are:

- One day of administrative absence per month in excess of 12-months during the qualifying period
- Two days of administrative absence per month in excess of 18-months during the qualifying period
- Four days of administrative absence per month in excess of 24-months during the qualifying period

Affected service members may elect to receive assignment incentive pay (AIP) in lieu of being awarded administrative absence days. (b) AIP is valued at \$200.00 for each day of administrative absence that otherwise would have been authorized, not to exceed \$3,000.00 monthly. (c) There is no option to cash in administrative absence days already earned. The AIP election must be made by the affected RC service member prior to the days being earned.

RC Service members accrue 2 administrative absence days per month when the mobilization threshold is exceeded and the RC Service member is serving:

- In Iraq or Afghanistan pursuant to sections 12301(a), 12302, or 12304;

- In Iraq or Afghanistan pursuant to section 12301(d) when designated by the Secretary concerned; or
- In a Combat Zone Tax Exclusion (CZTE) area under the authority of sections 12301(a), 12301(d), 12302, or 12304 when the CZTE area has been designated as a 2-day per month PDMRA accrual location by the Secretary concerned

RC Service members accrue 1 administrative absence day per month when the mobilization threshold is exceeded and the RC Service member is serving:

- Outside of the United States pursuant to sections 12301(a), 12302, or 12304;
- Outside of the United States pursuant to section 12301(d) when designated by the Secretary concerned; or
- In a CZTE area pursuant to section 12301(d) when the CZTE area has been designated as a 1-day per month PDMRA accrual location by the Secretary concerned.

3. Public Law 112-239, section 605 (Payment of Benefit for Non-participation of Eligible Members in PDMRA Program due to Government error), upon application, the Secretary concerned shall make a payment to each individual of \$200.00 for each day of non-participation of such individual in the PDMRA program. An individual who was eligible for participation as a member of the Armed Forces in the PDMRA program; but pursuant to an application for the correction of the military records of such individual or other process as determined by the Secretary, did not participate in one or more days in the program for which the individual was so eligible due to Government error.

4. Department of Defense Financial Management Regulation 7000.14-R, Volume 7a (Military Pay), chapter 15, paragraph 7.0 (Assignment Incentive Pay (AIP) in lieu of PDMRA Program), the Secretary of Defense directed on 19 January 2007, that a program be established to recognize members who mobilize or deploy more frequently than established rotation policy goals. The PDMRA program was established to allow a member to earn days of administrative absence, not chargeable to the member's accrued leave account, dependent on the length of time the member deployed beyond the rotation policy goals. Effective 24 May 2007, the program also allowed members to receive monetary compensation in lieu of administrative absence days in certain situations. The authority to pay monetary compensation terminated 1 October 2014. The member must elect to receive the AIP instead of the PDMRA administrative absence days before the PDMRA days are earned. Members electing to be paid the AIP will receive \$200.00 for each PDMRA day earned. Members are not authorized to be paid for any PDMRA days earned before an election is made. The effective dates for the implementation for the Army was 7 August 2007. Public Law 111-84, section 604, dated 28 October 2009, authorized the Secretary of Defense to prescribe regulations allowing the Secretary concerned to provide current and former members with payment for administrative absence days earned under the PDMRA program during the period

19 January 2007, through the date the Service implemented their respective PDMRA program. The USD (P&R) issued guidance on 1 February 2010, authorizing the Secretary concerned to issue implementing guidance. The authority expired on 28 October 2010. Current members, who earned PDMRA days during the period of 19 January 2007, through the date the member's service implemented the PDMRA benefits may receive either one day of administrative absence for each PDMRA day earned or payment of \$200.00 per day during that time frame as directed by the Secretary concerned. Payment may be paid in a lump sum or installments, at the election of the Secretary concerned. The program guidance for qualifying deployment and mobilizations on or after 19 January 2007, but before 1 October 2011.

//NOTHING FOLLOWS//