

IN THE CASE OF: [REDACTED]

BOARD DATE: 6 June 2024

DOCKET NUMBER: AR20230012120

APPLICANT REQUESTS: correction of her records to show she is eligible for blended retirement system continuation pay (BRS CP).

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

- DD Form 149 (Application for Correction of Military Record)
- Request for BRS CP

FACTS:

1. The applicant states the appropriate authorities were not notified of her eligibility for the CP for those selecting the BRS, therefore she believes she should be able to collect the payment even though she has passed the 12-year service mark. She did not miss this opportunity due to her own fault.

2. The applicant provides a Request for BRS CP, dated 12 August 2023, which shows she is a member of the Army National Guard (ARNG). She agreed to accept BRS CP, which was four times her monthly basic pay and she agreed to an additional obligated service of four years.

3. The applicant's service record contains the following documents:

a. DA Form 71 (Oath of Office - Military Personnel) shows she took the oath of office as a Reserve commissioned officer on 17 February 2011.

b. NGB Form 23A (ARNG Current Annual Statement), 17 February 2024, shows she has 13 creditable years of service for retired pay.

4. On 13 December 2023, the Chief, Special Actions Branch, National Guard Bureau, provided an advisory opinion, which states:

a. The applicant requests that her CP bonus be paid for opting into the BRS even though her paperwork was processed after her 12th year anniversary because the delay

was caused by negligence of her command and was no fault of her own. NGB recommended approval of the applicant's request.

b. The applicant opted into the BRS before her 12th year anniversary, which entitled her to CP. However, she claims that due to no fault of her own, she was never properly counseled about the process for requesting and receiving the CP bonus. She is requesting back pay of her CP bonus.

c. Her records show her pay entry basic date (PEBD) is 17 February 2011. She reach eight years of service on 17 February 2019, nine years of service on 17 February 2020, ten years of service on 17 February 2021, 11 years of service on 17 February 2022, and 12 years of service on 17 February 2023. In calendar year (CY) 2023, BRS CP was payable for Soldiers with no less than and not more than 12 years of service. In CY22, BRS CP was payable for Soldiers with no less than 10 and not more than 12 years of service. Therefore, the applicant was eligible in all of 2022 and for 1.5 months in 2023 to request CP. However, according to the [REDACTED] ARNG ([REDACTED] ARNG), based on their discussions with JFHQ G1's the commanders were not following the requirement of Army Regulation (AR) 600-8-7 (Retirement Services Program - Army) to identify and counsel Soldiers eligible for CP.

d. On 27 January 2017, the Deputy Secretary of Defense implemented guidance for the BRS for uniformed services, authorized by Public Law 114-92 (National Defense Authorization Act for Fiscal Year 2016). The BRS is a one-time payout available to Active Duty, ARNG, and Reserve Service members covered under the BRS with between 8 and 12 years of service who can enter into an agreement to perform additional obligated service. BRS includes a CP provision to encourage servicemembers to continue serving. CP is a mid-career bonus payment given in exchange for an agreement to serve a specific number of years and is a direct cash payout, like a bonus. Per the BRS CP Implementation guidance, all Soldiers may submit their CP request no earlier than 180 days prior to completing their 12th years of service, based on their PEBD. Soldiers should submit their CP request no later than 30 days prior to completing their 12th year of service.

e. For these reasons, it is the recommendation of NGB that the applicant's request be approved. Based on the applicant's records, she met the requirements for CP outlined in the BRS CP Implementation guidance, but because of miscommunication between the units at [REDACTED] ARNG that was at no fault of the applicant, her request was not processed on time. It is recommended that the applicant's CP be processed retroactively.

f. The ARNG Incentives Branch did not provide input for the recommendation. The [REDACTED] ARNG concurred with the recommendation.

5. On 18 December 2023, the advisory opinion was provided to the applicant to allow her the opportunity to respond. On 19 December 2023, the applicant responded asking if her request had been approved.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found relief is warranted.
2. The Board concurred with the conclusion of the advisory official that the applicant's BRS CP request was submitted late through no fault of her own. For the reasons provided in the advisory opinion, the Board determined the applicant's record should be corrected to show she submitted her request for BRS CP prior to completing her 12th year of service.

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 and Army National Guard records of the individual concerned be corrected to show she submitted her request for BRS CP prior to completing her 12th year of service.

	11/1/2024
X	[REDACTED]
CHAIRPERSON	
[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. Department of Defense memorandum dated 27 January 2017 (Implementation of the Blended Retirement System (BRS)), Attachment 1, provides guidance for the implementation of the Uniformed Services' BRS. This memorandum was effective as of 27 January 2017. Unless otherwise stated, the policies contained herein that implement the BRS shall be effective simultaneous with the effective date of the BRS, 1 January 2018. In pertinent part:

a. Paragraph 6b.(3) (Eligibility) provides that, any member of the Reserve Component (RC) of a Uniformed Service who is performing reserve component service as a member of the Ready Reserve or on the Active Status List of the Standby Reserve on 31 December 2017 is covered under the provisions of the BRS, who: (a) Has a date of initial entry into military service (DIEMS)/date of initial entry into uniform service (DIEUS) that is on or before 31 December 2017; and, (b) Is in receipt of basic pay or inactive duty pay under Sections 204 or 206, respectively, of Title 37, USC, on or after 31 December 2017; and, (c) Has accumulated fewer than 4,320 retirement points, in accordance with the provisions of Section 12733 of Title 10, USC, as of that date; and, (d) Elects to enroll in the BRS under provisions outlined in section 9.b. (Procedures for Enrollment).

b. Paragraph 8b.(2) (Continuation Pay) provides that, a Reserve Component member is eligible to receive CP who: (a) Is covered under the BRS; and, (b) Has completed not less than 8 and not more than 12 years of service as computed from that member's PEBD; and, (c) If elected to enroll in the BRS in accordance with section 6.b.(3), as calculated under provisions of Section 12733 of Title 10, USC, did not complete more than 12 years of service as calculated from PEBD prior to enrollment in the BRS. (d) Is a member of the Selected Reserve, or otherwise a member of the Ready Reserve in a status in which the member is eligible to receive basic pay or inactive duty pay, when otherwise eligible in accordance with criteria published by the Secretary concerned as specified in paragraph 8.f.; and, (e) Is eligible to enter into an agreement to serve not less than an additional 3 years in the Selected Reserve.

2. Title 37, USC, Section 356 (CP: Full Thrift Savings Plan (TSP) Members with 8 to 12 years of service) states:

a. 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

b. The amount of CP payable to a full TSP member shall be the amount that is equal to:

(1) 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 as the Secretary concerned shall specify in the agreement; and

(2) In the case of a member of a Reserve Component, the amount of monthly basic pay to which the member would be entitled at 12 years of service if the member were a member of a regular component multiplied by 0.5; plus at the discretion of the Secretary concerned, the amount of monthly basic pay multiplied by such number of months as the Secretary concerned shall specify in the agreement.

c. In addition to the CP, the Secretary concerned may provide CP to a full TSP member in an amount determined by the Secretary concerned.

d. The Secretary concerned shall pay CP to a full TSP member when the member completes 12 years of service. If the Secretary concerned also provides CP to the member, that CP shall be provided when the member completes 12 years of service.

e. A full TSP member may elect to receive CP in a lump sum or in a series of not more than four payments.

f. CP is in addition to any other pay or allowance to which the full TSP member is entitled.

g. A full TSP member who receives CP and fails to complete the obligated service required shall be subject to the repayment provisions.

3. AR 637-1 (Army Compensation and Entitlements Policy), paragraph 18–26 (Continuation Pay), states in pertinent part:

a. CP application points, rates, and years of required commitment may vary from year to year or from one military occupational specialty to another, and application criteria will be published annually by the Deputy Assistant Secretary of the Army for Military Personnel and Quality of Life. CP is not automatic, and Soldiers must apply before the established deadline, or they will forfeit their eligibility to receive CP.

b. Soldiers must meet the following criteria to qualify for CP:

(1) Must be enrolled in BRS.

(2) Must be within 180 days of the established application year point (between 8 and 12 years of service) as determined from their PEBD.

(3) Must have an approved application no later than the anniversary date of the established application year point as determined from their PEBD.

c. Commanders or designated representatives will —

(1) Verify Soldiers requesting CP elected BRS.

(2) Assist Soldiers in completing the CP contract and acquiring the appropriate approval prior to Soldier's 8th to 12th year of service as computed from the PEBD (based on year's criteria). Current law does not allow for the acceptance of a CP contract beyond the 12th year of service.

(3) Identify and ensure Soldiers eligible for CP submit their requests within the established timelines.

d. Soldiers enrolled in BRS will —

(1) Use the approved (CP (BRS)) request as published by Deputy Chief of Staff, G-1 plans and resources to apply for CP.

(2) Submit the completed contract to their respective S1 for approval and processing to Finance Officers (FO)/Army Military Pay Officers (AMPO).

e. Personnel office/S1 will —

(1) Include the unit identification code in block 3 of the CP contract. Also, complete item 4 of the CP contract with a 9-digit control number prior to forwarding to the FO/AMPO (CP1801001 is an example of such a number). First two characters (CP) represents continuation pay. The next two numbers represent the fiscal year the CP contract is approved. The fourth and fifth numbers represents the month and the last three numbers depicts the cumulative number(s) of CP contracts processed by the assigned unit for a particular month.

(2) Forward the CP contract to the FO/AMPO within 7 duty days in accordance with established procedures to finance for payment.

(3) Process the CP contract for filing in Interactive Personnel Electronic Records Management System under the service and finance folders.

//NOTHING FOLLOWS//