

IN THE CASE OF: [REDACTED]

BOARD DATE: 18 July 2024

DOCKET NUMBER: AR20230013199

APPLICANT REQUESTS: an Exception to Policy (ETP) 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)
- Certificate, 24 February 2018
- Request for CP (BRS), 13 September 2023
- Request for CP (BRS), 13 September 2023 (with electronic signatures)

FACTS:

1. The applicant states in pertinent part that at the time of application he had completed 13 years of service. In 2014, he had a break in service in order to attend medical school. Upon his graduation in June 2018, he returned to active duty, completed the BRS training and elected to participate. He contests that in March 2023, a colleague informed him about the CP BRS eligibility requirements. He notes that although he was made aware of the CP BRS in 2018, he was unclear of the eligibility requirements and the application process. Upon inquiry, he was informed that he was ineligible to request CP BRS since he missed the deadline by two-weeks. Since that time, he has made several attempts to obtain assistance through various agencies. Recently, after initiating a Congressional Inquiry, he was able to obtain assistance with obtaining CP BRS. Upon his completion of medical training in 2025, he will incur an additional 6-year service obligation. In summary, he notes that he was not adequately informed of CP BRS until he was ineligible to apply.

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

a. On 27 May 2006, the applicant was appointed a commission as a Field Artillery Officer within the active component.

b. On 31 July 2013, the applicant was released from active duty and transferred into a Troop Program Unit.

c. On 1 August 2013, the applicant was appointed a Reserve commission.

d. On 1 July 2014, Headquarters, 88th Regional Support Command issued Orders Number 14-182-00013 reassigning the applicant to the U.S. Army Reserve (USAR) Control Group (Reinforcement), effective 1 September 2014.

e. On 29 March 2018, the U.S. Army Human Resources Command issued Orders Number A-03-800337 ordering the applicant to active-duty with assignment to the Student Detachment, Madigan Army Medical Center, effective 3 June 2018, with a minimum active-duty service obligation of 48-months.

f. A review of the applicant's most recent Officer Record Brief (25 November 2022) reflects a Pay Entry Basic Date (PEBD) of 23 March 2010.

3. The applicant provides:

a. Certificate dated 24 February 2018, reflective of the applicant's successful completion of the BRS Opt-In course.

b. Request for CP (BRS) dated 13 September 2023, reflective of the applicant's submitted request to receive CP at a rate of 2.5 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 in accordance with the SAMR (637-1) Calendar Year 2023 (CY23). The form is not endorsed by the applicant, certifying official or the approval authority. However, it is dated 12 and 13 September 2023.

c. Request for CP (BRS) dated 13 September 2023, reflective of the applicant's submitted request to receive CP at a rate of 2.5 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 in accordance with the SAMR (637-1) Calendar Year 2023 (CY23). The form is endorsed by the applicant on 12 September 2023, and the certifying official and approval authority endorsed the form on 13 September 2023.

4. On 10 May 2024, the Department of the Army, Deputy Chief of Staff, G-1, Financial Management Specialist, Military Pay Branch, provided an advisory opinion recommending disapproval of the applicant's request noting that he has not provided any evidence to support his unawareness of the CP BRS eligibility requirements that would substantiate changing his records.

5. On 10 May 2024, the applicant was provided with a copy of the advisory opinion and afforded 14 days to provide comments.

6. On 22 May 2024, the applicant responded to the advisory opinion acknowledging the information provided and attributes the decentralization of command within military hospitals, enhanced remote working due to COVID restrictions and his own neglect as justification for actions or lack thereof. He again contests that upon learning of the application process for CP BRS, he immediately applied having only missed the suspense by two weeks. In support of his request, he asks that his continuous military service since 2002, his combined 35 months of deployment and commitment as a physician be taken into account.

BOARD DISCUSSION:

After reviewing the application and all supporting documents, the Board determined relief was warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. One potential outcome discussed was to deny relief based upon the findings and recommendations outlined in the G1 advisory opinion. However, based upon the statement of the applicant related to the impact of COVID-19 on obtaining information in a timely manner, the Board concluded there was sufficient evidence to grant relief by showing the applicant made a timely election of Continuation Pay (CP) under the Blended Retirement System (BRS).

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 Army records of the individual concerned be corrected by showing he submitted a timely request for Continuation Pay (CP) under the Blended Retirement System (BRS), and that it was received and processed in a timely manner by the appropriate agency.

1/6/2025

X

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. Deputy Secretary of Defense Memorandum, Implementation of the Blended Retirement System, dated 27 January 2017, advised the Blended Retirement System (BRS) was to go into effect 1 January 2018. BRS offers service members portable government retirement savings, provides the Department of Defense (DoD) greater force management flexibility and is a key step in modernizing DoD's ability to recruit, retain and maintain the talent required for military readiness, while reducing the direct cost to the American taxpayer.

a. Eligibility: Service members who enter the military on or after 1 January 2018, will automatically be enrolled in BRS. Service members who enter service on or before 31 December 2017 are grandfathered into the legacy high-3 retirement system. However, service members in the active component as of 31 December 2017, who have served fewer than 12 years, or service members in the Reserve component who have accrued less than 4,320 retirement points as of 31 December 2017 and are in a paid status, will have the option of electing BRS or to remain in the legacy retirement system.

b. Those currently serving members who were eligible to opt into BRS would have an entire year to make their opt-in decision. The opt-in or election period for BRS began 1 January 2018, and concluded on 31 December 2018. The decision to opt-in is irrevocable.

2. 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 the Regular Army shall be the amount equal to 2.5 times the member's monthly basic pay, plus at the discretion of the Secretary of the Army, the monthly basic pay of the member at 12 years of service multiplied by such number of months (not to exceed 13 months) as the Secretary of the Army shall specify in the agreement of the member.

c. In exchange for the CP, 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.

3. Army Regulation 15-185 (ABCMR) paragraph 2-9 states the ABCMR begins its consideration of each case with the presumption of administrative regularity. The applicant has the burden of proving an error or injustice by a preponderance of the evidence.

//NOTHING FOLLOWS//