

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 30 July 2024

DOCKET NUMBER: AR20230013238

APPLICANT REQUESTS: retroactive enrollment to receive Continuation Pay (CP) Blended Retirement System (BRS) with payment of \$28,069.20.

APPLICANT'S SUPPORTING DOCUMENT(S) CONSIDERED BY THE BOARD:  
DD Form 149 (Application for Correction of Military Record)

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 pertinent part, he opted into the blended retirement benefit and was not informed of the CP by his unit. He later received notice of the funds he should have received one month past due in the amount of \$28,069.20.
3. A review of the applicant's available service record reflects the following:
  - a. On 16 September 2009, he enlisted in the Iowa Army National Guard (IAARNG).
  - b. National Guard Bureau (NGB) Form 22 (Report of Separation and Record of Service) shows an honorable discharge from the IAARNG for appointment as a commissioned or warrant officer with service from 16 September 2009 to 11 May 2012 for a net service this period of 2 years, 7 months, and 26 days.
  - c. On 12 May 2012:
    - (1) The University of Northern Iowa issued a Memorandum for Appointment as a Reserve Commissioned Officer of the Army in the Aviation branch.
    - (2) He accepted a Reserve commission and executed an oath of office.
    - (3) NGB Form 337 (Oaths of Office) shows he accepted commission with the

IAARNG and executed an oath of office.

d. On 6 June 2012, the Office of the Adjutant General, Camp Dodge Joint Maneuver Training Center issued Orders Number 158-003 appointing him in the ARNG in the rank/grade of second lieutenant (2LT)/O-1.

e. On 13 December 2012, the NGB issued Special Orders Number 421 AR for Federal recognition of his initial appointment in the Army National Guard as a 2LT with a retroactive effective date of 12 May 2012.

f. On 11 December 2023, a Physical Evaluation Board was conducted finding the applicant physically unfit and recommended his disposition be permanent disability retirement.

g. On 13 December 2023, Headquarters, United States Army Physical Disability Agency issued:

(1) A Memorandum, Subject: Permanent Disability Retirement which advised him that he would be permanently retired due to his disabilities.

(2) Orders Number D 347-02 for release from assignment because of physical disability incurred while entitled to basic pay and under conditions that permit his retirement for permanent physical disability, with 80 percent disability and retired in the rank/grade of captain (CPT)/O-3, effective 13 January 2024.

h. On 16 January 2024, the IAARNG issued Orders Number 7000499 placing him on the Permanent Disability Retired List with a retroactive effective date of 13 January 2024.

i. His record is void of any documentation for CP BRS payment.

4. On 15 May 2024, the Office of the Deputy Chief Staff, G-1, Financial Management Specialist, Military Pay Branch, provided an advisory opinion recommending disapproval of the applicant's request stating, in effect:

a. The applicant does not provide any evidence that he was not aware of the Army's CP requirements in reference 1.b or that would warrant changing the record.

b. He enrolled in the BRS on 13 January 2018. He should have been aware of CP at that time since the Army published guidance to the force regarding eligibility and procedures for Soldiers to apply for CP.

5. On 16 May 2024, the applicant was provided with a copy of the advisory opinion to provide a response.

6. On 4 June 2024, he provided a rebuttal to the advisory opinion stating, in effect:

a. While deployed from February 2021 - March 2022, he worked in his Battalion S-1 to produce a list of everyone enrolled in blended retirement which included himself and everyone in his command. After returning from the deployment, he was told about the "blended retirement correction pay." In October 2022, he was notified by his unit that they had missed his packet submission deadline by one month and that they were waiting for guidance from state G-1 and NGB on how to correct the situation. He then received an email with the PDF document he submitted to the Board and was told to seek help filling it out submitting it from his county Veteran's Affairs (VA) Representative. The only information provided to him from his battalion S-1 was the dollar amount calculated that he was supposed to have received. After that he and the VA representative worked together over two meetings to submit the information to the best of their ability. Since then, he has not received any updates or correspondence on this process until recently when he received the recommendation of denial letter from the Deputy G-1. The letter states that he did not provide evidence that he was unaware of the "correction pay" (not what the state G-1 was calling it). He was aware of the paperwork being collected and submitted and completed his portion as well as the portion for other Soldiers in his unit. He was informed of the error concerning his pay specifically after the deadline had passed.

b. After receiving the letter from the Case Management Division, dated 16 May 2024, he reached out to the point of contact, Mr. S-, on 29 May 2024 to request instructions on submitting comments. After no response, he reached out again on 4 June 2024. Mr. S- responded promptly with an update on the case. With no formal means to provide comments on his case, he composed the above information in hopes that it helps layout the events leading up to this situation.

#### BOARD DISCUSSION:

After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was not warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. The Board noted that the applicant's PEBD is September 2009, and he would have reached 12th year of service in September 2021. According to the Army G-1, there is evidence he enrolled in BRS in January 2018. However, he does not provide his CP BRS form. It is unclear if and when he took the BRS training, if and when he signed the CP BRS form, and whether the certifying official had signed it. Additionally, aside from his statement, the applicant does not provide any evidence that he was not aware of the Army's CP requirements that would warrant changing the record. The Board also

reviewed and agreed with the advisory official's finding that since the applicant enrolled in the BRS in January 2018, he should have been aware of CP at that time since the Army published guidance to the force regarding eligibility and procedures for Soldiers to apply for CP.

BOARD VOTE:

Mbr 1      Mbr 2      Mbr 3

:	:	:	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
█	█	█	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

The evidence presented does not demonstrate the existence of a probable error or injustice. Therefore, the Board determined the overall merits of this case are insufficient as a basis for correction of the records of the individual concerned.

█

---

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. Title 37 USC, section 356 (CP) states:

a. The Secretary concerned shall pay CP under subsection (a) to a full Thrift Savings Plan (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 three 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 Active Guard/Reserve 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.

c. The maximum amount the Secretary concerned may pay a member under this section is — 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.

3. Public Law 114-92, National Defense Authorization Action (NDAA) for Fiscal Year (FY 2016, section 634 (CP for Full Thrift Savings Plan (TSP) Member with 12-Years of Service), (a) CP, 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.

a. Amount, the amount of CP payable to a full TSP member under subsection (a) shall be the amount that is equal to 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 (not to exceed 13-months) as the Secretary concerned shall specify in the agreement of the member under subsection (a)

b. Timing of Payment, the Secretary concerned shall pay CP under subsection (a) to a full TSP member when the member completes 12 years of service. If the Secretary concerned also provides CP under subsection (c) to the member, that CP shall be provided when the member completes 12 years of service.

4. Deputy Secretary of Defense Memorandum dated 27 January 2017, Subject: Implementation of the BRS, implements guidance for the BRS for the Uniformed Services, which was authorized in Public Law 114-92 section 631 through 635 of the National Defense Authorization Act (NDAA) for Fiscal Year 2016. Members of the Uniformed Service are covered under the provisions of the BRS who served in a Uniformed Service for fewer than 12-years as calculated from their pay entry basic date.

5. Army Regulation 637-1 (Army Compensation and Entitlements Policy), provides Department of the Army (DA) policies for entitlements and collections of pay and allowances for active duty Soldiers. Paragraph 18-26 (Continuation Pay), the BRS provides for CP in exchange for additional service obligation by Soldiers when they reach between the 8 and 12-years point in their career. Soldiers will receive a minimum of 2.5 times base pay for Regular component and .5 times base pay for Reserve components if they commit to a minimum of 3-years of additional service.

//NOTHING FOLLOWS//