

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 30 July 2024

DOCKET NUMBER: AR20230013547

APPLICANT REQUESTS: in effect, retroactive enrollment into the Blended Retirement System (BRS).

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, 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 there is a discrepancy in his service record concerning his enrollment in the BRS. He joined the military in January 2018 and opted into BRS during the enrollment period of calendar year (CY) 2018. According to the provision of the BRS, he should have been receiving matching contributions on his Thrift Savings Plan (TSP) since his enlistment in the Regular Army. Additionally, he should have received a 1% match from the government. He reviewed his military record and noticed that he was never transferred to the BRS and had not received any matching contributions for his TSP since 2018. He formally requests a comprehensive review of his case and a correction to make the necessary adjustments to ensure that he receives the matching contributions as outlined in the BRS guidelines. He understands the significance of accurate and up-to-date military records, particularly regarding retirement benefits. He trusts that the Board will carefully consider his request and make the appropriate amendments to rectify his oversight.
3. A review of the applicant's service record shows:
 - a. He enlisted in the Regular Army on 2 January 2018.
 - b. He was honorably released from active duty (REFRAD) on 21 May 2021. His DD Form 214 (Certificate of Release or Discharge from Active Duty) shows he completed 3 years, 4 months, and 20 days of active service. He was assigned

separation code MBK and the narrative reason for separation listed as "Completion of Required Active Service."

c. He enlisted in the Pennsylvania Army National Guard (PAARNG) on 8 February 2021 with an effective date of enlistment one day following his REFRAD date of 21 May 2021.

d. He was honorably released from the PAARNG on 21 May 2024. His NGB Form 22 (National Guard Report of Separation and Record of Service) shows he completed 3 years of net service for the period. Block 23 (Authority and Reason) lists "Expiration of active status commitment in the Selected Reserve."

e. Orders 0008211453.00 dated 22 May 2024, assigned the applicant to the U.S. Army Reserve Control Group effective 22 May 2024.

5. On 14 May 2024, the Office of the Deputy Chief of Staff G-1, Financial Management Specialist rendered an advisory opinion in the processing of this case. She opined the office recommended the Board disapprove the applicant's request for matching contributions for his BRS. The applicant's military pay records show he was in the legacy retirement system, High-3, and was never enrolled in the BRS. The applicant should be advised that he address his concerns regarding matching contributions to his Thrift Savings Program accounts with the Federal Retirement Thrift Savings Board.

6. On 16 May 2024, the advisory opinion was forwarded to the applicant for acknowledgment and/or response. The applicant has not provided a response to date.

7. By regulation (AR 15-185), the ABCMR begins its consideration of each case with the presumption of administrative regularity, which is that what the Army did was correct. The ABCMR is not an investigative body and decides cases based on the evidence that is presented in the military records provided and the independent evidence submitted with the application. The applicant has the burden of proving an error or injustice by a preponderance of the evidence.

8. By law, the Blended Retirement System dated 27 January 2017 states that the BRS goes into effect 1 January 2018. 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. The opt-in or election period for BRS begins 1 January 2018, and concludes on 31 December 2018. The decision to opt-in is irrevocable.

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 applicant served in the Regular Army from 2 January 2018 to 21 May 2021 and in the PAARNG from 21 May 2021 to 21 May 2024. His PEBD is 2 January 2018. The opt-in or election period for BRS began on 1 January 2018, and concluded on 31 December 2018. According to the Army G-1, the applicant's military pay records show he was in the legacy retirement system, High-3, and was never enrolled in the BRS. As such, the Board found insufficient evidence to support a retroactive enrollment.

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.2.

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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, U.S. Code, 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. Deputy Secretary of Defense Memorandum, Implementation of the Blended Retirement System dated 27 January 2017 states that the BRS goes into effect 1 January 2018. 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. Those currently serving members who are eligible to opt into BRS will have an entire year to make their opt-in decision. The opt-in or election period for BRS begins 1 January 2018, and concludes on 31 December 2018. The decision to opt-in is irrevocable.

3. All Army Activity Message Number 050/2019 (Implementation Guidance for Exception to Policy (ETP) to Retroactively Enroll Certain Eligible Soldiers in the Blended Retirement System and Hardship Extension of the Enrollment Period) provides that Soldiers who would like to request an ETP to the BRS Calendar Year (CY) 2018 Opt-In enrollment will acknowledge the irrevocability of the Opt-In decision. Soldiers who were notified of their eligibility for BRS and did not have access to the BRS link on MyPay, must notify the Deputy Chief of Staff G-1 of the discrepancy. These extensions do not create the authority to enroll a Soldier who had the opportunity to elect to enroll in the BRS during the CY2018 but who chose not to do so, nor does it allow for retroactive Thrift Savings Plan (TSP) contributions.

4. On 1 January 2018 eligible Soldiers were given access to the BRS link on MyPay to enroll in the BRS. The system process required Soldiers to follow 5 separate screens to include providing their current address and date of birth. Screen two required the Soldier to acknowledge that he/she understands that the decision to opt-in is irrevocable once they complete the election. On screen three and four, Soldiers had to check a box and answer a question respectively that stated "I fully understand that I am opting into the BRS." Screen five allowed the Soldier to save and print the confirmation and again informed the Soldier that they were opting into the BRS. Prior to the beginning of the BRS enrollment, the Defense Finance and Accounting Service (DFAS) moved the Leave and Earning Statement (LES) link on MyPay and replaced it with the BRS opt-in

link. Service members immediately began to contact their respective Services of their "erroneous" enrollment while trying to acquire a LES and surprisingly received notification that they had opted into the BRS. After several complaints, the Department in coordination with DFAS, moved the LES link back its customary first position on MyPay and relocate the BRS link effective 26 January 2018.

5. Army Regulation 15-185 (ABCMR) prescribes the policies and procedures for correction of military records by the Secretary of the Army, acting through the ABCMR. The ABCMR begins its consideration of each case with the presumption of administrative regularity, which is that what the Army did was correct. The ABCMR is not an investigative body and decides cases based on the evidence that is presented in the military records provided and the independent evidence submitted with the application. The applicant has the burden of proving an error or injustice by a preponderance of the evidence.

//NOTHING FOLLOWS//