

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 11 October 2024

DOCKET NUMBER: AR20230013980

APPLICANT REQUESTS: in effect, Exception to Policy (ETP) to receive retroactive

- Health Professions Officer Incentive Pay (HPO IP) for fiscal years (FY) 2020, 2021 and 2022
- Health Professions Officer (HPO) Board Certification Pay (BCP) for FY 2020, 2021 and 2022

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

- DD Form 149 (Application for Correction of Military Record) hardcopy
- Headquarters (HQs), U.S. Army Reserve Command (USARC) Memorandum, Subject: ETP Request for Colonel (COL) P-, G- (the applicant)

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 effect, he was denied HPO IP and special mobilized pay in the amount of \$25,000.00 per year for FY 20, 21 and 22 despite serving on mobilized active duty and the Release from Active Duty (REFRAD) back to Reserve status. A REFRAD back into the Reserve is equivalent to a contract to continued service. The new computer-based application system installed in 2021 excluded the U.S. Army Reserve (USAR) Control Group (Individual Mobilization Augmentee (IMA)) HPO from the ability to apply for incentives. He submitted an alternative paper contract with the request for ETP which were disapproved despite having served on active duty for 519 days from 2019 through 2022.

3. A review of the applicant's service record shows:

a. On 26 April 1996, the University of the State of NY Education Department granted the applicant a license to practice medicine and surgery.

b. On 18 June 1996, the Board of Physician Quality Assurance of the State of MD qualified the applicant to be licensed to practice medicine and surgery in the State of MD.

c. On 5 April 2001, the applicant executed his oath of office and was appointed as a Reserve commissioned officer in the rank/grade of captain (CPT)/O-3.

d. On 18 May 2001, the applicant was awarded 4 years of constructive service credit for his Doctor of Medicine degree from the University of Kerala, 1 year on credit for internship at the Nassau University Medical Center, and 5 years of credit for his graduate professional education in Psychiatry and Clinical Addiction Fellowship. He was also awarded 1-year, 4-months, and 17-days of credit for professional experience in NY.

e. On 8 June 2001, Orders Number C-06-116078, issued by the U.S. Total Army Personnel Command, the applicant was appointed effective 5 April 2001 and assigned to the USAR Control Group (Annual Training).

f. On 30 June 2001, the University of the State of NY licensed the applicant to practice as a physician.

g. On 2 July 2001, Orders Number C-07-118320, issued by the USAR Personnel Command, the applicant was assigned to the USAR Control Group (IMA), effective 29 June 2001.

h. On 25 March 2004, Orders Number M-03-400554, issued by the U.S. Army Human Resources Command (AHRC), the applicant was ordered to active duty in support of Operation Iraqi Freedom, effective 25 April 2004.

i. On 24 August 2004, the applicant was honorably released from active duty. DD Form 214 (Certificate of Release or Discharge from Active Duty) shows the applicant completed 4-months of active service.

j. On 9 February 2007, Orders Number M-02-700095, issued by AHRC, the applicant was ordered to active duty in support of Operation Enduring Freedom, effective 31 March 2007.

k. On 17 July 2007, the applicant was honorably released from active duty. His DD Form 214 for this period shows the applicant completed 3-months and 17-days of active service.

l. On 9 March 2010, Orders Number M-03-000123, issued by AHRC, the applicant was ordered to active duty in support of Operation Enduring Freedom, effective 12 March 2010.

m. On 26 June 2010, the applicant was honorably released from active duty. His DD Form 214 for this period shows he completed 3 months and 15 days of active service.

n. On 4 November 2011, Orders Number M-11-100455, issued by AHRC, the applicant was ordered to active duty in support of Operation Enduring Freedom, effective 30 December 2011.

o. On 13 April 2012, the applicant was honorably released from active duty. His DD Form 214 for this period shows he completed 3-months and 14-days of active service.

p. On 20 November 2012, Orders Number M-11-200347, issued by AHRC, the applicant was ordered to active duty in support of Operation Enduring Freedom, effective 14 January 2013.

q. On 20 May 2013, Orders Number M-05-300186, issued by the AHRC, the applicant was ordered to active duty in support of Operation Enduring Freedom, effective 12 July 2013.

r. On 6 January 2014, the applicant was honorably released from active duty. His DD Form 214 for this period shows he completed 11-months and 23-days of active service.

s. On 25 February 2014, Orders Number M-02-400037, issued by AHRC, the applicant was ordered to active duty in support of Operation Enduring Freedom, effective 9 May 2014.

t. On 5 October 2014, the applicant was honorably released from active duty. His DD Form 214 for this period shows he completed 4 months and 27 days of active service.

u. On 23 June 2015, Orders Number C-06-509694, issued by AHRC, the applicant was assigned to the USAR Control Group (Reinforcement), effective 23 June 2015.

v. On 23 July 2015, Orders Number C-07-511285, issued by AHRC, the applicant was assigned to the USAR Control Group (IMA), effective 23 July 2015.

w. On 19 February 2016, Orders Number HR-6050-00012, issued AHRC, the applicant was ordered to active duty in support of Operation Enduring Freedom, effective 8 July 2016.

x. On 11 April 2016, the applicant applied for participation in the Selected Reserve (SELRES) Special Pay for critical shortage skills. He was entitled to \$25,000.00 to be

paid upon receiving assignment orders and required to perform satisfactorily in his specialty 60W (Psychiatry) and he incurred a 3-year SELRES obligation which continues until he completed the contracted period of service.

y. On 4 November 2016, the applicant was honorably released from active duty. His DD Form 214 shows the applicant completed 3 months and 27 days of active service.

z. On 6 March 2017, Orders Number HR-7065-00007, issued by AHRC, the applicant was ordered to active duty in support of Operation Enduring Freedom, effective 3 April 2017.

aa. On 31 July 2017, the applicant was honorably released from active duty. His DD Form 214 shows the applicant completed 3-months and 28-days of active service.

bb. On 15 March 2019, Orders Number HR-9074-00001, issued by AHRC, the applicant was ordered to active duty in support of Operation Enduring Freedom, Conus Support Base (CSB), effective 22 March 2019.

cc. On 14 June 2019, Orders Number HR-9165-00001, issued by AHRC, the applicant was ordered to active duty in support of Operation Enduring Freedom, CSB, effective 20 July 2019.

dd. On 16 November 2019, the applicant was honorably released from active duty. His DD Form 214 for this period shows the applicant completed 7-months and 25-days of active service.

ee. On 9 July 2021, Orders Number HR-1190-00013, issued by AHRC, the applicant was ordered to active duty in support of Operation Enduring Freedom, CSB, effective 26 July 2021.

ff. On 22 November 2021, the applicant was honorably released from active duty. His DD Form 214 shows the applicant completed 3-months and 27-days of active service.

gg. On 16 February 2022, Orders Number HR-2047-00013, issued by AHRC, the applicant was ordered to active duty for operational support, effective 28 February 2022. A DD Form 214 for this period of service is not available in the applicant's service record.

hh. On 15 September 2023, Orders Number UV-258-0001 issued by HQs, USARC, the applicant was ordered to active duty in support of Operation Enduring Freedom, CSB, effective 29 September 2023.

ii. On 24 May 2024, the applicant was honorably released from active duty. His DD Form 214 for this period shows the applicant completed 7 months and 26 days of active service.

4. The applicant provides a Memorandum, HQ, USARC, Subject: ETP Request for COL P-,G- (the applicant) ETP to receive retroactive HPO Retention Bonus payments. The memorandum states the USARC G-1 disapproves the applicant's request for an ETP to process retroactive Retention Bonus (RB) payments. A review of records indicates that he did not have a signed and approved RB contract on file for Fiscal Year (FY) 20. The FY20 USAR Health Professions Special Pay and Incentive Pay Plan Policy states that officers must apply for incentives using the automated self-service application in the Reserve Incentives Management Subsystem; no other agreement/contract submission method is accepted. Retroactive incentive payments for dates prior to the valid application date and/or the effective/approved date of eligibility are unauthorized. All incentives are subject to the availability of appropriated funds for the pertaining FY; the USARC G-1 does not have the authority to commit funds from prior FYs.

5. On 6 August 2024, in the processing of this case, Headquarters, USARC, provided an advisory opinion regarding the applicant's request for an ETP for retroactive HPO IP and BCP for FY 20 through FY 22 mobilizations. The advisory official stated the applicant has been paid HPO IP and BCP for all mobilization periods except for the period of 26 July through 4 November 2021. The applicant requested this incentive on 13 July 2021; however, his contracts were not approved until 5 November 2021. The gap in his HPO IP and BCP pay was due to the delay in the contract approval. USARC recommends the applicant be granted full relief for the period the applicant had not received these entitlements. The USARC Army Medical Department Incentive Program Office will correct the applicant's contract start date to reflect 26 July 2021 and submit a request for back pay pending approval from the Resource Management Officer.

6. On 20 August 2024, the applicant was provided with a copy of the advisory opinion for comment or rebuttal.

BOARD DISCUSSION:

1. 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 and standard review based on law, policy and regulation. Upon review of the applicants petition, available military records and Headquarters U.S. Army Reserve Command – Resource Management USARC-G-1 advisory opinion, the Board concurred with the advising official recommendation for

approval finding the applicant’s IP/BCP contracts were not approved until 5 November 2021 due to delays in approving the contracts.

2. The Board found sufficient evidence to support the applicant’s contentions for an exception to policy (ETP) to receive retroactive his Health Professions Officer Incentive Pay (HPO IP) and Board Certification Pay (BCP) for the period 26 July 2021 to 4 November 2021. The Board noted, based on the advising opine, the applicant received his IP/BCP for all his mobilization periods except for one. As such the Board granted partial relief for exception to policy to receive retroactive Health Professions Officer Incentive Pay (HPO IP) and Board Certification Pay (BCP) for the period 26 July 2021 to 4 November 2021.

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 a recommendation for partial relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by authorizing Exception to Policy (ETP) to receive retroactive for his Health Professions Officer Incentive Pay (HPO IP) and Board Certification Pay (BCP) for the period 26 July 2021 to 4 November 2021.

2. The Board further determined 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 Exception to Policy (ETP) to receive retroactive

- Health Professions Officer Incentive Pay (HPO IP) for fiscal years (FY) 2020, and 2022
- Health Professions Officer (HPO) Board Certification Pay (BCP) for FY 2020, and 2022



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 Financial Management Regulation, Volume 7A, Chapter 5 states, to be eligible for IP, an HPO must be serving in an Active Component or Reserve Component of a Military Service and entitled to basic pay under Title 37, USC, section 204 or compensation pursuant to Title 37, USC, section 206; serving on AD or in an active Reserve status in a designated health professional specialty. Table 5-4 shows a psychiatrist in initial residency is authorized HPO IP in the amount of \$8,000.00

per year/prorated monthly. A fully qualified psychiatrist is authorized HPO IP in the amount of \$43,000.00 per year/prorated monthly. Chapter 5 (Health Professions Officer (HPO) Special And Incentive Pay), to establish policy pertaining to Health Professions Special and Incentive) Pay. Paragraph 5.0 (Board Certification Pay (BCP)), eligibility

- serving in an Active Component (AC) or RC of a Military Service and entitled to basic pay
- serving on AD or in an active Reserve status in a designated health professional clinical specialty
- have a post-baccalaureate degree in a clinical specialty or a post master's certificate acceptable to the Secretary concerned can satisfy this requirement)
- certified by a professional board in a designated health profession clinical specialty

3. Title 37 USC, section 335 (Special bonus and incentive pay authorities for officers in health professions), (b) Health Professions Incentive Pay. The Secretary concerned may pay incentive pay under this section to an officer in a Regular or Reserve Component of a uniformed service who: (1) is entitled to basic pay under section 204 of this title or compensation under section 206 of this title; and (2) is serving on active duty or in an active status in a designated health profession specialty or skill. (e) (Maximum Amount and Method of Payment), (1) Maximum amount. The Secretary concerned shall determine the amounts of a bonus or incentive pay to be paid under this section. Board certification incentive pay under subsection (c) may not exceed \$6,000.00 for each 12-month period an officer remains certified in the designated health profession specialty or skill.

4. Department of Defense Instruction 6000.13 (Accession and Retention Policies, Programs, and Incentives for Military Health Professions Officers (HPOs)), to establish policy, assign responsibilities, and prescribe procedures for: a. Military Department payment of incentives and bonuses to HPOs pursuant to section 335 of Title 37, USC, Paragraph 10 f. Board Certification Pay. To be eligible for BCP, an HPO must: (1) Be entitled to basic pay under section 204 of Reference (c) or compensation under section 206 of Reference (c). (2) Have a post-baccalaureate degree in a clinical specialty. A post-master's certificate acceptable to the Secretary concerned can satisfy this requirement. (3) Be certified by a professional board in a designated health profession clinical specialty. (4) Be serving on active duty or in an active status in the specialty of the board certification.

//NOTHING FOLLOWS//