

IN THE CASE OF: [REDACTED]

BOARD DATE: 8 August 2024

DOCKET NUMBER: AR20230014775

APPLICANT REQUESTS: reinstatement of his Student Loan Repayment Program (SLRP) incentive.

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, his SLRP was not paid in accordance with his contract as Fiscal Year (FY) 2018 was not paid. He was directed to apply to the ABCMR by the Battalion Career Counselor.
3. A review of the applicant's available service record reflects the following:
 - a. On 1 December 2011, he enlisted in the [REDACTED] Army National Guard (PAARNG) for a period of 8 years. In conjunction with this enlistment National Guard Bureau (NGB) Form 600-7-5-R-E (Enlisted Loan Repayment Program Addendum ARNG of the United States) was completed which shows he was entitled to the SLRP benefit of up to \$50,000.00 for a service obligation of at least six- years with two-years Reserve obligation, or eight years' service obligation with the [REDACTED] ARNG.
 - b. DD Form 214 (Certificate of Release or Discharge from Active Duty), ending 6 September 2012 shows he completed initial active duty training and advanced individual training from 22 February 2012 to 6 September 2012 and was awarded military occupational specialty 25U (Signal Support Systems Specialist).
 - c. DA Form 4836 (Oath of Extension of Enlistment or Reenlistment), dated 14 August 2017 shows he extended his enlistment with the [REDACTED] ARNG for a period of 1 year.

d. DA Form 4836, dated 18 July 2018 shows he extended his enlistment with the PAARNG for a period of 1 year.

e. DA Form 4836, dated 2 August 2019 shows he reenlisted with the ■■■ ARNG for a period of 6 years.

f. He continues service with the ■■■ ARNG.

4. On 3 June 2024, the NGB, Chief, Special Actions Branch, provided an advisory opinion recommending approval of the applicant's request sting, in effect:

a. He enlisted in the ■■■ ARNG 1 December 2011 with a SLRP addendum. The applicant claims the final, FY2018 payment was not paid to his student loans. He submitted his SLRP addendum and Educational Assistance Program Statement of Understanding for review.

b. After review of the applicant's records and coordination with the ■■■ ARNG Incentive Manager, the applicant's FY2013 to FY2017 payments were made directly to the student loan lenders. FY2018 payment was not made. The ■■■ ARNG cites that he did not have an opportunity for payment due to Guard Incentives Management System outages, Battalion Command Counselors transitions, leadership change and a military occupation specialty change.

c. It is the recommendation of this office that the applicant's request be approved. His student loan payment for FY2018 should be paid in accordance with his SLRP addendum.

d. The ■■■ ARNG concurs with this advisory opinion.

5. On 5 June 2024, the applicant was provided with a copy of the advisory opinion and provided an opportunity to respond. As of 19 June 2024, he did not respond.

BOARD DISCUSSION:

After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. The evidence shows the applicant enlisted in the ■■■ ARNG on 1 December 2011 with a student loan repayment program (SLRP) addendum. He contends the final, FY2018 payment was not paid to his student loans. The evidence further shows the applicant's FY2013 to FY2017 payments were made directly to the student loan lenders; however, the FY2018 payment was not made due to Guard Incentives Management System outages, command counselors transitions, leadership change, and a military occupation

specialty change. Given these variables, beyond the applicant's control, the Board agreed with the NGB advisory official's determination that the applicant's request be approved. The applicant's student loan payment for FY2018 should be paid in accordance with his SLRP addendum.

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 by:

- Showing the applicant timely submitted a request for payment of the FY2018 portion of his Student Loan Repayment Program (SLRP) incentive to the National Guard Bureau (NGB)
- Showing the NGB timely received, processed, and approved his claim for payment of the FY2018 portion of his SLRP incentive, in accordance with his SLRP Addendum, signed on 1 December 2011

8/8/2024

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. 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. Army Regulation 135-7 (Incentive Programs) states the SLRP incentive provides for the repayment by the Government of a designated portion of any outstanding loan(s) secured after 1 October 1975. Subject to this chapter, any loan made, insured or guaranteed under Part B of the Higher Education Act of 1965, or any loan made under Part E of this Act, after 1 October 1975, may be repaid.

a. The following loans qualify for repayment. However, these loans must have been incurred after 1 October 1975 or qualifying periods of Selected Reserve service after 1 October 1980.

- Stafford Loan Program (formerly Guaranteed Student Loans (GSL))
- Federally Insured Student Loans (FISL)
- Perkins Loan (formerly National Defense Student Loan and National Direct Student Loans (NDSL))
- Auxiliary Loans to Assist Students (ALAS)
- Supplemental Loans for Students (SLS)
- Consolidated Loan Program (CLP)
- SMART Loans

b. For each year of satisfactory service in the Selected Reserve, the loan amount to be repaid if the amount of the loan or loans does not exceed the designated maximum portions, the amount of annual repayment is 15 percent of the original balance of the loan or loans, plus accrued interest not paid by the Department of Education, or \$500.00 plus the accrued interest not paid by the Department of Education, whichever is greater.

c. A soldier will not be eligible for any initial or subsequent loan repayments until he or she has completed IADT. Is MOS qualified or received sufficient training to be deployed. Has been awarded a high school diploma or otherwise qualifies as a secondary school graduate as prescribed by paragraph 1–7.1d and shows proof of such status within the time frame established in paragraph 1–7.1a. Has served 1 year in the Selected Reserve after securing the loan or loans. Has reached the anniversary date of the Selected Reserve contract for SLRP participation.

3. Title 31, U.S. Code, section 3702, is the 6-year barring statute for payment of claims by the government. In essence, if an individual brings a claim against the government for monetary relief, the barring statute says that the government is only obligated to pay the individual 6 years from the date of approval of the claim. Attacks to the barring statute have resulted in litigation in the U.S. Court of Federal Claims. In the case of *Pride versus the United States*, the court held that the Board for Correction of Military Records (BCMR) is not bound by the barring act, that the BCMR decision creates a new entitlement to payment and the 6 years starts running over again, and that payment is automatic and not discretionary when a BCMR decision creates an entitlement.

//NOTHING FOLLOWS//