

IN THE CASE OF: [REDACTED]

BOARD DATE: 15 August 2024

DOCKET NUMBER: AR20230015089

APPLICANT REQUESTS: in effect, remission or cancellation of his indebtedness for the Selected Reserve Incentive Program (SRIP) – U.S. Army Reserve (USAR) Reenlistment Bonus.

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

- DD Form 239 (Application for the Review of Discharge from the Armed Forces of the United States) in lieu of 149 (Application for Correction of Military Record)
- Statement of support
- Headquarters (HQs), 99th Readiness Division (RD) (USAR) Orders Number 19-282-00047
- Department of Veterans Affairs (VA) summary of benefits letter
- DD Form 2870 (Authorization for Disclosure of Medical or Dental Information)

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, through the Director [REDACTED] Veterans Service, he enlisted in the USAR with a SRIP bonus and was in the middle of his contract obligation when he was discharged from the USAR for medical disqualification in 2019 due to his mental health. Before his discharge he was going through a medical evaluation board, but it was stopped, and he was discharged by his command.

He was never counseled that his separation would result in the loss of his bonus. All communications with his unit ceased until he received his discharge orders. After he submitted a Congressional complaint he was informed his commander decided to terminate his bonus and recoup it along with payment for Servicemembers Group Life Insurance (SGLI) for the period of 2017 through 2019. He now has an indebtedness in the amount of \$11,000.00.

Since his discharge from the USAR, the VA found him permanent and totally service connected disabled due to his mental health which was incurred while in the service. His separation actions and his indebtedness is causing him additional mental anguish that is compounding his conditions and adding to the trauma that he already carries from his time in the Army and the USAR.

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

a. On 2 February 2010, the applicant enlisted in the Regular Army and served in Military Occupational Specialty (MOS) 74D (Chemical Operations Specialist).

b. On 23 April 2014, Orders Number 113-0172, issued by the Installation Management Command U.S. Army Element, the applicant was assigned to the U.S. Army transition point for release from active duty.

c. On 5 July 2014, the applicant was honorably released from active duty and assigned to a USAR Troop Program Unit. DD Form 214 (Certificate of Release or Discharge from Active Duty) shows the applicant completed 4-years, 5-months, and 4-days of active service. It also shows the applicant served in Kuwait during the period of 14 June 2013 through 11 March 2014.

d. On 2 October 2015, the applicant reenlisted in the USAR for 6-years. His DD Form 4 (Enlistment/Reenlistment Document Armed Forces of the United States) shows his current expiration term of service was 5 February 2016 and his new contract would be effective 6 February 2016 and he understood that any bonus payments would begin on the effective date.

(1) The USAR Reenlistment Bonus Addendum states the applicant understood he met the eligibility criteria and was qualified in MOS 74D.

(a) Section V (Entitlement) states his service obligation was for 6-years with a bonus in the amount of \$10,000.00 for a one time lump sum payment to be paid upon providing proof of contract and qualification at the time of request for payment. To retain the bonus once paid was contingent upon satisfactory participation in the Selected Reserve and subject to current recoupment policy.

(b) Section VIII – Termination states the applicant's entitlement to the reenlistment bonus would be terminated if he became an unsatisfactory participant or if he was separated from the USAR for any reason other than by death, injury, illness, or other impairment not the result of the Soldier's own misconduct.

(c) Section IX – Recoupment states the applicant's entitlement to the reenlistment cash bonus would be terminated for reason listed in section VIII, he may

be subject to recoupment action. Recoupment would be based upon multiplying the number of months served satisfactorily during the term for which the incentive was authorized by the proportionate monthly dollar amount. This amount would be determined by dividing the total authorized bonus amount by 72-months for the 6-year bonus. The amount of the bonus he would be entitled to keep will be subtracted from the total bonus amount paid to date.

e. On 9 October 2019, Orders Number 19-282-00047, issued by HQs, 99th RD (USAR), the applicant was honorably discharged from the USAR, effective 15 November 2019. The additional instructions states medically disqualified – not result of own misconduct.

f. The applicant's DA Form 5016 (Retirement Accounting Statement) formerly titled the Chronological Statement of Retirement Points shows the applicant obtained during retirement year ending:

- 5 October 2017 – 18 Inactive Duty Training (IDT) points, 15 membership points and 7 Active Duty Training (ADT) points for a total of 40 creditable points
- 5 October 2018 – zero IDT points, 15 membership points, and zero active duty points for a total of 15 creditable points
- 5 October 2019 - zero IDT points, 15 membership points, and zero ADT points for a total of 15 creditable points
- 15 November 2019 – 1 IDT point, 2 membership points, and zero ADT points for a total of 3 creditable points

g. The Soldier Management Services - WEB Portal shows the applicant had a 3 in the psychiatric category of the physical capacity/stamina (P), upper extremities (U), lower extremities (L), hearing and ears (H), eyes (E), and psychiatric (S) (PULHES). He had significant limitations in the S category.

4. The applicant provides:

a. VA summary of benefits letter dated 25 October 2023 which shows the applicant has a totally and permanent combined service connected disability effective 31 July 2019.

DD Form 2870 which only has section III – Release Authorization completed which stated the applicant understood:

- He had the right to revoke this authorization at any time, which must be in writing

- If he authorized his protected health information to be disclosed to someone who is not required to comply with federal privacy protection regulations, then such information may be re-disclosed and would no longer be protected
- He had a right to inspect and receive a copy of his own protected health information to be used or disclosed
- Military Health System (which includes the TRICARE Health Plan) may not condition treatment in Medical Treatment Facilities/Dental Treatment Facilities, payment by the TRICARE Health Plan, enrollment in the TRICARE Health Plan or eligibility for TRICARE Health Plan benefits on failure to obtain this authorization
- he requests and authorizes the named provider/treatment facility/TRICARE Health Plan to release the information described above to the named individual/organization indicated

5. On 12 July 2024, in the processing of this case, the Army Review Boards Agency, Case Management Division, notified the applicant his application and supporting documents did not contain sufficient evidence to support his request. In order for the Army Board for Correction of Military Records to consider his application he needed to provide additional documentation concerning his debt. His case was placed on hold for 30-days, to give him the opportunity to respond. The applicant did not respond.

6. On 18 July 2024, in the processing of this case, the Defense Finance and Accounting Service (DFAS) provided information regarding the applicant's indebtedness via e-mail. The DFAS official stated the applicant had an original debt in the amount of \$8,760.67 plus interest, penalties, and administrative fees in the amount of \$44.84. The amount of \$160.00 of the debt and \$4.57 of the interest, penalties and administrative fees had been written off to bring his debt to \$8,640.94 which was referred to a collection agency. He may owe more as the collection agency may charge additional fees. The debt system reports his debt to be as follows:

a. The member's debt of \$844.00 is for collection of SGLI premiums which were paid on their behalf. These payments were paid because he had an active payroll account that was not separated until recently by his prior unit or finance office. The SGLI debt occurred from May 2017 through October 2019.

b. Debt is due to recoupment of the unearned portion of the member's reserve or national guard Bonus. The unit reported the applicant satisfactorily performed 15-months of his contract.

BOARD DISCUSSION:

After reviewing the application and all supporting documents, and the evidence found within the military record, the Board found that relief was/was not warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. Based upon the current narrative reason for separation reflecting the applicant was medically disqualified for further military service and a not result of own misconduct, the Board concluded there was sufficient evidence to grant relief by cancelling the collection of his DFAS debt from his Selected Reserve Incentive Program (SRIP) – U.S. Army Reserve (USAR) Reenlistment Bonus, and that all previously collected monies be returned to the applicant.

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 cancelling the collection of his DFAS debt from his Selected Reserve Incentive Program (SRIP) – U.S. Army Reserve (USAR) Reenlistment Bonus, and that all previously collected monies be returned to the applicant.

2/5/2025

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. 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 (AR) 600-4 (Remission or Cancellation of Indebtedness) provides policy and instructions for submitting and processing packets for remission or cancellation of indebtedness to the U.S. Army. Requests for remission or cancellation of indebtedness must be based on injustice, hardship, or both. A Soldier's debt to the U.S. Army may be remitted or canceled based on this regulation in cases arising from debts incurred while serving on active duty or in an active status as a Soldier.

3. Department of Defense Financial Management Regulation 7000.14-R, Volume 7a (Military Pay Policy – Active Duty and Reserve Pay), prescribes the criteria for determining creditable service for military members; provides examples for computing valid creditable service; states periods of service that are not creditable for pay purposes; cites conditions for the payment of military pay entitlements; explains the computation of leave and conditions for leave accrual; and provides for situations where enlistments are not valid.

a. Paragraph 3.4.2. Under circumstances not specifically mentioned in this chapter, the Secretary of the Military Department concerned has the discretion to, at some point in the process, render a case-by case determination that the member's repayment of, or the Military Department's full payment of an unpaid portion of, a pay or benefit.

b. Paragraph 2.5.1, a member, who does not complete the term of enlistment, or extension of enlistment, or who is not technically qualified in the skill for which the bonus was paid, will be subject to the repayment provisions of Chapter 2.

c. Paragraph 2.5.2, a member, who is discharged 12-months or less before the expiration of enlistment or extension of enlistment in accordance with Title 10 USC, section 1171 may be considered to have completed the terms of enlistment or extension of enlistment for which the bonus was paid. For all other early discharges, the Military Departments will determine and advise when repayment is not required.

4. AR 601-210 (Active and Reserve Components Enlistment Program) in effect at the time, prescribes eligibility criteria governing the enlistment of persons, with or without prior Service (PS), into the Army Reserve (AR).

a. Paragraph 10-8 (Termination of incentives), incentive eligibility will be stopped when any of the termination reasons as listed below apply and that member shall not be eligible to receive any further incentive payments, except for Service performed before the termination date. Once declared ineligible, termination of an incentive will not affect a Soldier's responsibility to serve their current statutory or contractual Service commitment. Termination of eligibility to an incentive will occur, if a Soldier:

- becomes an unsatisfactory participant per AR 135–91; the termination date entered into the personnel data reporting systems must be the date the Soldier is declared an unsatisfactory participant
- fails to become MOS-qualified or -certified in the health professional specialty for which contracting
- accepts an Active Guard/Reserve or a permanent military technician position where membership in the SELRES is a condition of employment
- voluntarily moves to a non-bonus unit or MOS
- exceeds the maximum authorized period of nonavailability
- fails to extend the contracted term of Service for an authorized period of nonavailability
- separates from a SELRES unit or the Individual Ready Reserve of the Army Reserve or Army National Guard of the United States for any reason
- has received the maximum benefit authorized
- fails to participate satisfactorily in required training during the entire period of service agreed to in accordance with the written agreement, unless the failure to participate satisfactorily was due to reasons beyond the control of the member (that is; death, injury, illness or other impairments)

b. Paragraph 10-9 (Recoupment of incentives), recoupment conditions in this paragraph cover all incentives. When relief is not granted through the waiver process from incentives received, the member must refund a pro-rata amount to the Government when termination is due to reasons outlined in paragraph 10–8. All debts to the U.S. Government will be submitted for collection from SELRES and Ready Reserve members. Delinquent repayment(s) will result in the collection of interest on the remaining balance.

//NOTHING FOLLOWS//