

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 17 September 2024

DOCKET NUMBER: AR20240000265

APPLICANT REQUESTS: in effect, an exception to policy for payment of Continuation Pay (CP) under the provisions of the Blended Retirement System (BRS).

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

- DD Form 149 (Application for Correction of Military Record)
- Email communication, August 2020
- Email communication, August, September, and November 2023

FACTS:

1. The applicant states he was denied processing of Mid-Career CP due to incomplete or erroneous guidance from unit incentives managers. Battalion incentives/pay managers were poorly informed about the nature of the BRS Mid-Career CP system, and the exact execution of it. Due to this, he was informed that he would be ineligible to apply for CP at 8 years and would not be paid out until 12 years. Upon compliance with previous guidance, his pay request was denied. He was advised to submit an Army Board for Correction of Military Records (ABCMR) application.

2. A review of the applicant's military record shows:

a. He enlisted in the California Army National Guard (CAARNG) on 22 January 2011.

b. On 28 February 2011, the Military Entrance Processing Station, Sacramento, CA, published Orders Number 1066004, which ordered the applicant to initial active duty for training to complete basic training under the alternate (split) training program. The orders show his Pay Entry Base Date (PEBD) as 22 January 2011.

c. On 10 August 2013: DA Form 71 (Oath of Office - Military Personnel) shows he was appointed as a Reserve commissioned officer and executed his oath of office. Also, NGB Form 337 (Oaths of Office) shows he was appointed in the rank/grade of second lieutenant/O-1 in the CAARNG and executed his oath of office

d. On 27 July 2018, the NGB published Special Orders Number 171, which announced the extension of Federal Recognition for the applicant's promotion to rank/grade of captain/O-3, effective on with a Date of Rank (DOR) of 18 July 2018.

e. The applicant completed 12 years of service on 22 January 2023.

f. On 30 July 2024, the NGB published Special Orders Number 297 AR, which announced the extension of Federal Recognition for the applicant's promotion to rank/grade of major/O-4, effective on with a DOR of 20 June 2024.

g. The applicant's record did not contain a completed request for CP under the provisions of the BRS, and he did not provide a copy. It is unknown what method of payment he elected and whether he committed to the additional service requirements.

3. The applicant provides email communication from the months of August 2020, and August, September, and November 2023, between himself, S-1, and CAARNG G-1 discussing the "mid-career continuation bonus", BRS, BRS on-line training and when the BRS CP would be paid to him. The emails also discuss submitting an appeal based on him receiving incorrect information pertaining to CP BRS. The applicant was advised to submit a request to the ABCMR.

4. On 22 July 2024, the NGB, Chief, Special Actions Branch, provided an advisory opinion for this case and recommended approval. The advisory official stated:

a. The applicant opted into the Blended Retirement Pay System before his 12th year anniversary, which entitled him to CP. However, the applicant claims that due to no fault of his own, he was never properly counseled about the process for requesting and receiving the CP bonus. The applicant is requesting back pay of his CP bonus.

b. The applicant's records show that his PEBD is 22 January 2011. He reached 12 years of service on 22 January 2023. The applicant states that he opted into BRS on 7 December 2018. His unit did not receive proper guidance, and the applicant was instructed to submit his request for CP when he was at 12 years of service. However, the correct requirement is that on the date the Soldier signs the Request for CP document, the Soldier must have at least eight, but no more than 12 years of service as computed from the Soldier's PEBD during CY23 [calendar year 2023]. The applicant tried requesting CP in September which was about eight months after his 12th-year anniversary.

c. On 27 January 2017, the Deputy Secretary of Defense implemented guidance for the BRS for uniformed services, authorized by Public Law 114-92 (National Defense Authorization Act for Fiscal Year 2016). The BRS is a one-time payout available to Active Duty, ARNG, and Reserve Service Members covered under the BRS with

between eight and 12 years of service who can enter into an agreement to perform additional obligated service. BRS includes a CP provision to encourage Service Members to continue serving. CP is a mid-career bonus payment given in exchange for an agreement to serve a specific number of years and is a direct cash payout, like a bonus. Per the BRS CP Implementation guidance, all Soldiers may submit their CP request no earlier than 180 days prior to completing their 12th year of service, based on their PEBD. Soldiers should submit their CP request no later than 30 days prior to completing their 12th year of service.

d. Based on the applicant's claims, there was a clear miscommunication of information by the unit. Due to no fault of his own, the applicant did not get his CP BRS paperwork processed correctly and on time. The State realizes the mistake and fully supports the applicant's request.

e. For these reasons, it is the recommendation of this office that the applicant's request be approved. Based on the applicant's records, he met the requirements for CP outlined in the BRS CP Implementation guidance, but because of miscommunication between the units at CAARNG that was at no fault of the applicant, his request was not processed on time. It is recommended that the applicant's CP be processed retroactively. The Army National Guard Incentives Branch did not provide input for this recommendation. The CAARNG concurs with this recommendation.

5. On 24 July 2024, the applicant was provided with a copy of the NGB advisory opinion for comments or rebuttal. He did not respond.

6. On 5 September 2024, the applicant was contacted at the email address provided in his DD Form 149 requesting a completed CP BRS request form showing the multiplier for his rank at the time he completed 12 years of service, additional obligated service, and certifying and official signatures. As of 13 September 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 applicant contends that he opted into the BRS before his 12th year anniversary, which entitled him to CP. However, due to no fault of his own, he was never properly counseled about the process for requesting and receiving the CP bonus. He requests back pay of his CP bonus.

a. The Board noted that Continuation Pay (CP) is a direct cash payout, like a bonus, available to service members enrolled in the Blended Retirement System (BRS). It is targeted at the mid-career mark, payable between completion of 8 years of service, but before completion of 12 years of service (calculated from a service member's PEBD). This one-time payout is available to Active Duty, National Guard and Reserve Service members enrolled in the BRS who can enter into an agreement to perform additional obligated service. The applicant does not provide such agreement that reflects the multiplier, the method of payment, or agreement to additional service obligation.

b. The evidence shows his PEBD is 22 January 2011. He reached 12 years of service on 22 January 2023. He states he opted into BRS on 7 December 2018 and that he was told to submit his request for CP when he was at 12 years of service. The correct requirement is that on the date the Soldier signs the Request for CP document, the Soldier must have at least 8 but no more than 12 years of service as computed from the Soldier's PEBD during CY2023. The applicant tried requesting CP in September which was about eight months after his 12th-year anniversary.

c. The Board reviewed and agreed with the advisory official's determination that because of miscommunication between the units at CAARNG that was at no fault of the applicant, his request was not processed correctly or on time. The State realizes the mistake and fully supports the applicant's request. The Board determined the applicant met the requirements for CP outlined in the BRS CP Implementation guidance, the applicant's CP should be processed retroactively.

BOARD VOTE:

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:	:	:	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 submitted to the National Guard Bureau an exception to policy for BRS enrollment to include a retroactive start date to his 12th year of service mark (22 January 2023)
- showing his exception to policy was timely received and approved by the NGB
- providing him the opportunity to open a case to pursue any retroactive matching and agency automatic TSP funds, if applicable, provided all other criteria is met (particularly the service obligations)

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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 37, United States Code (USC), Section 356 (CP: Full Thrift Savings Plan (TSP) Members with 12 years of service) states:

a. 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

b. The amount of CP payable to a full TSP member shall be the amount that is equal to:

(1) 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 as the Secretary concerned shall specify in the agreement; and

(2) In the case of a member of a Reserve Component, the amount of monthly basic pay to which the member would be entitled at 12 years of service if the member were a member of a regular component multiplied by 0.5; plus at the discretion of the Secretary concerned, the amount of monthly basic pay multiplied by such number of months as the Secretary concerned shall specify in the agreement.

c. In addition to the CP, the Secretary concerned may provide CP to a full TSP member in an amount determined by the Secretary concerned.

d. The Secretary concerned shall pay CP to a full TSP member when the member completes 12 years of service. If the Secretary concerned also provides CP to the member, that CP shall be provided when the member completes 12 years of service.

e. A full TSP member may elect to receive CP in a lump sum or in a series of not more than four payments.

f. CP is in addition to any other pay or allowance to which the full TSP member is entitled.

g. A full TSP member who receives CP and fails to complete the obligated service required shall be subject to the repayment provisions.

2. Office of the Assistant Secretary of the Army Manpower and Reserve Affairs Memorandum – Subject: Blended Retirement System (BRS) Continuation Pay (CP) - Calendar Year 2022 (CY22), 27 January 2022, establishes eligibility, amounts, and additional service obligation for CP in CY22 as authorized in Title 37, USC, Section 356 and 373. This guidance is effective immediately and expires on 31 December 2022. It applies to Regular Army (RA), Army National Guard/Army National Guard of the United States, and United States Army Reserve Soldiers who are covered under the BRS.

a. Paragraph 4a (Eligibility) states, RA and Active Guard Reserve (AGR) members who meets the following criteria are eligible to enter into an agreement to serve the obligation period specified in paragraph 6 below:

- Is covered under the BRS; and
- Is between 10 and no more than 12 years of service, as computed from the Soldier's Pay Entry Base Date (PEBD)

b. Paragraph 4b states, Army Reserve and Army National Guard, not in an AGR status, must meet the eligibility criteria listed in paragraph 4a and be a member of the Selected Reserve (SELRES) or otherwise a member of the Ready Reserve in a status in which the member is eligible to receive basic pay.

c. Paragraph 5 (CP Amount) states, for those eligible to apply for CP during CY22, the CP amount will be computed using their current pay grade and years of service as listed on the monthly basic pay table provided by the Defense Finance and Accounting Service in effect on the date of the Soldier's request and as follows: (1) For RA, and Title 10 and Title 32 AGR Soldiers performing active service in a career status program, CP is 2.5 times the monthly basic pay. (2) For Army Reserve and Army National Guard Soldiers serving in the SELRES (minus AGR), CP is 4 times the active duty monthly basic pay.

d. Paragraph 6 (Service Obligation) states, in exchange for the CP described in paragraph 5, Soldiers must agree to serve four years of additional service in the component in which they are serving at the time CP is requested. The service obligation commences on the date of the Soldier's CP request.

e. Paragraph 7 (Application Process) states, the Army will use the Request for Continuation Pay (Blended Retirement System) as the CP contract to document the Soldier's CP election and obligated service. The CP contract will be placed in the Interactive Personnel Electronic Records Management System, referred to as iPERMS, under the service and finance subfolders. At a minimum, the BRS CP election packet will include the following:

- Proof of BRS enrollment status

- Request for Continuation Pay (Blended Retirement System)/CP contract

f. All Soldiers may submit their CP request once they become eligible for CP based on meeting eligibility criteria listed in paragraph 4. Soldiers must sign their CP request on or before the start of their 12th year of service based on PEBD. Payments are not payable until BRS opt-in can be verified, and the CP is approved. Commanders may appoint appropriate personnel to serve as CP certifying officials. When no appointment has been made, the certifying official will be the Soldier's servicing military personnel office and/or servicing human resources specialist.

g. Paragraph 8 (Payment Options) states, (1) Soldiers may elect to receive CP in a single lump sum or in a series of equal installments, not to exceed four annual payments over four consecutive years. (2) Soldiers who want to have their CP payment(s) directed to their TSP must update their allotment allocations in myPay and their TSP settings to ensure the CP funds are distributed in accordance with their personal financial plan prior to submitting the CP request.

h. Paragraph 9 states, the approval authority will be the requesting Soldier's immediate commander.

//NOTHING FOLLOWS//