

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 25 October 2024

DOCKET NUMBER: AR20240000337

APPLICANT REQUESTS: correction of his record to show approval of his application for Continuation Pay Blended Retirement System (CP BRS).

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

- DD Form 149 (Application for Correction of Military Record)
- Email, Subject: BRS – CP, 28 June 2022
- Attachment, CP Eligibility Roster
- Request for CP (BRS), 6 April 2022
- Email: Subject: Hagen Continuation Pay Email, 7 August 2024

FACTS:

1. The applicant states in part, that his application for CP was recently denied due to being outside of the 10-12 year window of service. He requests that his CP application be approved with the same terms that he initially submitted for (four times his monthly base pay in exchange for a four-year commitment to the Army). He additionally states that his unit was not familiar with CP and by the time they sent out the email pertaining to it, he was already outside of the time in service window. Missing such a large retention incentive would lead him to strongly considering resigning his commission.

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

a. On 7 May 2010, the applicant enlisted in the Army National Guard (ARNG) for a period of 6 years. This date established his Pay Entry Basic Date (PEBD).

b. On 30 June 2011, he entered active duty for training.

c. On 26 August 2011, he was honorably released from active duty for training. He completed 1 month and 27 days of total active service.

d. Orders Number 14-129-001 issued by the Department of Military Science, Iowa State University of Science and Technology, effective 9 May 2014, discharged him from

the U.S. Army Reserve (USAR) Control Group (Reserve Officers' Training Corps) to accept a commission in the United States Army.

e. On 10 May 2014, he was appointed as a Reserve Commissioned Officer of the Army under Title 10, United States Code and executed an oath of office.

f. Orders Number 162-009, issued by Headquarters, Iowa National Guard, on 11 June 2014 appointed him in the Army National Guard (ARNG).

g. Special Orders Number 18, issued by the National Guard Bureau, on 22 January 2015 extended Federal recognition for his initial appointment and in the ARNG.

h. Orders Number 0000891876.00, effective 28 September 2020, promoted the applicant to the rank/grade of captain (CPT)/O-3.

i. The applicant's completed 12 years of service on 7 May 2022.

3. The applicant provides:

a. An email that states the unit has Soldiers who are eligible for CP BRS and explains the list of eligible Soldiers have been attached in an Excel spreadsheet. The email additionally states that Soldiers must submit their CP request between 10 and no more than 12 years of service, as computed from the Soldier's PEBD.

b. Request for CP BRS showing the applicant requests CP BRS at 4x his monthly basic pay in return for an additional obligated service of 4 years to be paid in one single lump sum. The form shows his PEBD as 7 May 2010. The form is endorsed by the certifying official and the approval authority on 18 July 2022 and 28 July 2022.

c. An email response to Case Management Division on 7 August 2024, clarifying his original request. His response reiterates that he was not made aware of his eligibility to apply for CP until after he was outside of his eligibility window and that the bonus should be tax-free, as he was in Kosovo at the time he applied.

4. On 16 August 2024, the National Guard Bureau, Chief, Special Actions Branch, provided an advisory opinion which 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 notified 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 7 May 2010. He reached 12 years of service on 7 May 2022. His unit did not receive proper guidance, and the applicant was instructed to submit his request for CP when he was over 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 Calendar Year 23. The applicant was notified about requesting CP in June which was a month 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 8 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 CP BRS Implementation guidance, but because of miscommunication between the units at KYARNG 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.

5. On 23 August 2024, the applicant was provided with a copy of the advisory opinion for comment or rebuttal. 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 Board carefully considered the applicant's record of service, documents submitted in support of the petition and executed a comprehensive review based on law, policy, and regulation.

Upon review of the applicant's petition, available military records, and the National Guard Bureau, Chief, Special Actions Branch advisory opinion, the Board concurred with the advisory official finding the applicant's unit never properly received guidance and the applicant was instructed to submit his request for Continuation Pay Blended Retirement Pay (CP BRS) after his 12th year of service. The Board determined there was clear miscommunication of information and due to no fault of the applicant, his paperwork was not processed in a timely manner; therefore granted relief.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

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:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:	:	:	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

The Board determined that the evidence presented was sufficient to warrant a recommendation for relief. As a result, the Board recommends that all Department of the Army records and Army National Guard records of the individual concerned be corrected by:

- showing the applicant was in receipt of a completed continuation pay (CP) request prior to the completion of 12 years of service as computed from the PEBD
- DFAS paying his entitlement to CP utilizing the Military Pay Account and not the ABCMR funds payable through Debts and Claims

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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.

REFERENCE:

Title 37 United States Code, section 356 (CP) states:

a. The Secretary concerned shall make a payment of continuation pay to each full TSP member of the uniformed services under the jurisdiction of the Secretary who has completed not less than 8 and not more than 12 years of service in a uniformed service; and enters into an agreement with the Secretary to serve for not less than 3 additional years of obligated service.

b. Payment Amount—The Secretary concerned shall determine the payment amount under this section as a multiple of a full TSP member's monthly basic pay. The multiple for a full TSP member who is a member of a regular component or a reserve component, if the member is performing active Guard and Reserve duty, shall not be less than 2.5 times the member's monthly basic pay. The multiple for a full TSP member who is a member of a reserve component not performing active Guard or Reserve duty shall not be less than 0.5 times the monthly basic pay to which the member would be entitled if the member were a member of a regular component. The maximum amount the Secretary concerned may pay a member under this section is — 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 described in subparagraph (A) multiplied by such number of months (not to exceed 6 months) as the Secretary concerned shall specify in the agreement of the member.

//NOTHING FOLLOWS//