

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 4 October 2024

DOCKET NUMBER: AR20240000379

APPLICANT REQUESTS: entitlement to Basic Allowance Housing (BAH) as calculated based upon assignment to Joint Base Pearl Harbor-Hickam (JBPH-H), HI from 1-25 July 2023.

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

- DD Form 149 (Application for Correction of Military Record)
- Memorandum – Subject: Requesting Relief under the Housing Allowance Waiver Program, 23 August 2023
- Email communication and Case Details
- Orders Number 4970425, 7 June 2023
- Leave and Earnings Statement (LES), July 2023
- Itinerary, 22 July 2023
- Orders Number 228-5703, 16 August 2023
- DA Form 5960 (BAH Authorization and Dependency Declaration), 21 August 2023
- Passport

FACTS:

1. The applicant states in pertinent part that he proceeded on Permanent Change of Station (PCS) orders from HI to Germany in July 2023. He contests that he did not receive these orders until 7 June 2023 with a report date of 1 July 2023. He was unable to arrange shipment of his household goods until 21 July 2023, so his spouse and children remained in HI until 25 July 2023. His BAH entitlements were terminated upon his arrival in Germany effective 1 July 2023 resulting in a "no pay due" for 1 August 2023, causing significant hardship to his family. He was advised to seek amendment of his PCS orders. Upon receipt, the finance office informed him that his orders should have been amended to reflect separate travel of his family members prior to relocating from HI to Germany and therefore back payment of his BAH entitlements would not occur. He argues that during his relocation briefing, he inquired about the need for any additional actions pertaining to the travel of his dependents. He was informed that no additional actions were required other than to insure that their airplane tickets were for the correct travel dates. He was later advised that this information was incorrect; the

amended orders needed to reflect that his dependents were permitted to travel after the shipment of his household goods. He was advised to seek relief through this Board process.

2. A review of the applicant's service records show:

a. Having prior enlisted service, on 8 September 2011, the applicant was commissioned in the Regular Army.

b. On 31 July 2020, the U.S. Army Installation Management Command issued Orders Number 213-0008 announcing the applicant's reassignment to JBPH-H, HI, effective 15 November 2020. These orders further provide concurrent travel of the applicant's dependents.

c. On 23 May 2022, Headquarters, U.S. Army Human Resources Command issued Orders Number 143-004 announcing the applicant's promotion to major, effective 1 June 2022.

d. On 7 June 2023, the Department of the Army issued Orders Number 4970425 announcing the applicant's reassignment to Germany, effective 1 July 2023. These orders further authorize the relocation (travel) of his 5 dependents.

e. On 8 June 2023, the U.S. Army Installation Management Command, Pacific Region issued Orders Number 159-5901 amending Orders Number 4970425 to reflect Soldier and command-sponsored dependents leave travel to home of record are authorized deferred Consecutive Overseas Tour travel to his Home of Record or no farther distant than his Home of Record. Travel must be performed within one year after arriving to his gaining installation, otherwise, the entitlement is lost.

f. On 16 August 2023, the U.S. Army Installation Management Command, Pacific Region issued Orders Number 228-5703 amending Orders Number 4970425 to reflect deferred travel of the applicant's dependents.

3. The applicant provides:

a. Memorandum – Subject: Requesting Relief under the Housing Allowance Waiver Program dated 23 August 2023, reflective of the applicant's submitted request to receive BAH entitlements based on the HI rate from 1 -24 July 2023. He again notes that due to the untimeliness of his orders his dependents were unable to travel to his gaining duty station and report on 1 July 2023. Instead, they remained behind until 25 July 2023 when they departed HI arriving in Germany on 27 July 2023.

b. Email communication and Case Details reflective of communication concerning the applicant's entitlement to dual housing allowance for the time period that he was assigned to his gaining duty station (Germany) and his dependents were still at his losing duty station (HI). The applicant was advised that he was not entitled to dual BAH for the time period that he and his dependents resided in two different locations because his dependents arrived prior to being separated for 31 days.

c. LES dated July 2023, reflective of the applicants pay and entitlements for the month of July 2023. Due to his previous receipt of advance pay, incurred debt and disbursed allotment, the applicant did not receive any disbursed pay.

d. Itinerary dated 22 July 2023, reflective of the travel of the applicant's dependents from HI to Germany on 25 July 2023.

e. DA Form 5960 dated 21 August 2023, reflective of the applicant's submitted request for a change of his BAH entitlements based on the rate authorized for Wiesbaden, Germany, effective 25 July 2023.

f. Passport, reflective of the applicant's spouse Mrs. H_ C_ passport information as issued on 14 March 2023.

4. On 20 August 2024, the Department of the Army, Deputy Chief of Staff, G-1, Financial Management Specialist – Military Pay Branch, provided an advisory opinion which states in part, and recommending approval of the applicant's request noting that he was not provided adequate guidance on his entitlements and should not be responsible to pay the additional HI rent while his family awaited the pickup of their household goods. The applicant's reporting date did not provide enough time to prepare for shipment of his household goods. Since the earliest he was able to arrange the shipment was 21 July 2023, the applicant's dependents remained in HI until they were shipped. As such, the applicant continued to pay rent until his family departed housing. The applicant was not advised that he would need to complete a waiver to continue to receive BAH at the HI rate.

5. On 21 August 2024, the applicant was provided with a copy of the advisory opinion and afforded 15 days to provide comments.

6. On 22 August 2024, the applicant responded in concurrence with the recommendation.

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 recommendation from the Deputy Chief of Staff, G-1, the Board concurred with the G-1 memorandum finding the applicant was not provided adequate guidance on his entitlements and he should not be responsible to pay the additional Hawaii rent while his family awaited the pickup of his household goods. The Board determined there is sufficient evidence to support the applicant's entitlement to Basic Allowance Housing (BAH) as calculated based upon assignment to Joint Base Pearl Harbor-Hickam (JBPH-H), HI from 1 to 25 July 2023. The Board defers to the Defense Finance and Accounting Service (DFAS) for calculation of payment.

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 records of the individual concerned be corrected by authorizing payment of Basic Allowance Housing (BAH) as calculated based upon assignment to Joint Base Pearl Harbor-Hickam (JBPH-H), HI from 1 to 25 July 2023 to be calculated by the Defense Finance and Accounting Service.

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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. Army Regulation 55-46 (Travel Overseas) provides that for a Soldier to be eligible for transportation allowances for moving Family members to an Outside of the Continental U.S. (OCONUS) location and some housing allowances at an OCONUS location, the Family members must be command sponsored, which may also require the Soldier to meet certain service requirements. Soldiers may use a copy of PCS orders that list spouse and Family member data or the overseas Family travel message authorizing Family members to travel to the overseas command as proof of command sponsorship.

a. After the Soldier receives command sponsorship approval, the Soldier will send the request for nonconcurrent travel through the unit personnel section to the U.S. Army Garrison (USAG) Military Personnel Department (MPD), which will coordinate Family travel through the Family housing office of the applicable CONUS installation.

b. CONUS installations are responsible for coordinating nonconcurrent travel of Family members who reside in CONUS. Soldiers will not be referred to the OCONUS local community travel office to coordinate CONUS-residing Family-member travel.

2. Department of Defense 7000.14-R (Financial Management Regulation) Volume 7a, Chapter 26 (Housing Allowances) states a Service member on Active Duty (AD) entitled to basic pay is authorized only one basic housing allowance (BAH or OHA) based on their grade, rank, location, and whether the Service member has any dependents. A housing allowance generally is not authorized for a Service member who is assigned to appropriate and adequate Government quarters.

a. Paragraph 10.6 (Government Defers Dependent Travel (Non-Concurrent Travel) provides that when the Government defers dependent travel at Government expense to a Service member's new Permanent Duty Station (PDS), a with-dependent housing allowance continues to be paid at the old PDS rate, or at the rate for the dependent's location if the dependent relocated there at Government expense. In a case in which the Secretarial Process previously authorized a housing allowance based on the dependent's location, that rate continues.

b. Paragraph 10.6.3 provides that payment of the with-dependent allowance continues for 60 days after dependent travel is authorized. If the 60-day time period expires, a dependent has not arrived at the Service member's PDS, and an extension to the 60-day period has not been granted through the Secretarial Process, a housing allowance is not authorized for the dependent's location. However, the Service member is authorized a with-dependent allowance based on the PDS location.

//NOTHING FOLLOWS//