

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 2 October 2024

DOCKET NUMBER: AR20240000823

APPLICANT REQUESTS: to be paid Blended Retirement System (BRS) Continuation Pay (CP).

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

- DD Form 149 (Application for Correction of Military Record)
- Memorandum, Subject: BRS CP CY 2023

FACTS:

1. The applicant states CP as described in the BRS for an eligible Soldier between 8 and 12 years of service was never received. Soldiers in the BRS are entitled to a lump sum payment equal to the monthly base active duty pay multiplied by a set number, depending on the Fiscal Year (FY) and the multiplier factor for FY23 was times 4. He was the only Soldier in his unit that was eligible to opt into the BRS and no one else in his unit was aware of the CP and the steps needed to process that money until a month after he hit his 12 years of service. He met all eligibility requirements to receive this benefit and guidance was put out by the state in March of 2023, but it never reached down to their unit level until another Soldier stumbled upon it looking through retirement benefits.

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

a. On 18 October 2011, the applicant enlisted in the Virginia Army National Guard (VAARNG) for a period of 6 years.

b. On 19 October 2011, Orders Number 1292005 issued by the Department of Defense, Military Entrance Processing Station, Glen Jean, WV, ordered the applicant to initial active duty training for approximately 10 weeks of basic training and 10 weeks of advanced individual training.

c. The applicant's Enlisted Record Brief shows his Pay Entry Basic Date (PEBD) as 18 October 2011 and he was promoted to the rank/grade of sergeant (SGT/E-5) on 3 September 2019.

- d. The available service record is void of the BRS CP request form.
 - e. The applicant completed 12 years of service on 18 October 2023.
3. The applicant provides a Memorandum, Subject: BRS CP CY 2023 showing the eligibility amounts and additional service obligation for receipt of the BRS CP.
4. On 12 June 2024, the National Guard Bureau, Chief, Special Actions Branch, provided an advisory opinion which states:
 - a. The applicant requests that his Continuation Pay bonus be paid for opting into the Blended Retirement System even though his paperwork was processed after his 12th year anniversary because the delay was caused by negligence of his command and was no fault of his own. The NGB recommends: Approval.
 - b. The applicant opted into the Blended Retirement Pay System before his 12th year anniversary, which entitled him to Continuation Pay. 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 Continuation Pay bonus. The applicant is requesting back pay of his Continuation Pay bonus.
 - c. The applicant's records show that his PEBD is 18 October 2011. He reached twelve years of service on 18 October 2023. In Calendar Year 2023, BRS CP was payable for Soldiers with no less than 8 and not more than 12 years of service. In CY22, BRS CP was payable for Soldiers with no less than 10 and not more than 12 years of service. Therefore, the applicant was eligible in all of 2022 and for over 10 months in 2023 to request CP. However, according to VAARNG, based on their discussions with JFHQ G1's, the commanders were not following the requirements in AR 600-8-7 to identify and counsel Soldiers eligible for CP.
 - d. 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 Continuation Pay provision to encourage Service Members to continue serving. Continuation pay 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 Continuation Pay Implementation guidance, all Soldiers may submit their continuation pay request no earlier than 180 days prior to completing their 12th year of service, based on their pay entry basic date. Soldiers should submit their continuation pay request no later than 30 days prior to completing their 12th year of service.

e. 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 BRS-CP paperwork processed correctly and on time. The State realizes the mistake and fully supports the applicant's request. 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 Continuation Pay outlined in the BRS Continuation Pay Implementation guidance, but because of miscommunication between the units at VAARNG that was at no fault of the applicant, his request was not processed on time. It is recommended that the applicant's Continuation Pay be processed retroactively.

f. The Army National Guard Incentives Branch did not provide input for this recommendation. The Virginia Army National Guard concurs with this recommendation.

5. On 14 June 2024, the applicant was provided with a copy of the advisory opinion for comment or rebuttal.

6. On 26 September 2024, the applicant provided a complete CP BRS request form showing for 4 years of additional obligated service in the ARNG, he requested 4x his base pay to be paid in a lump sum. The form contained the certifying official and approval authority signatures. Additionally, he provided his commander's assumption of command memorandum.

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's PEBD is 18 October 2011. He was promoted to sergeant/E-5 on 3 September 2019. He reached 12 years of service on 18 October 2023. The Board noted that based on the applicant's PEBD, he was eligible for and met the requirements for CP outlined in the BRS CP Implementation guidance in all of 2022 and for over 10 months in 2023 to request CP. However, because of miscommunication between the units at the VAARNG that was at no fault of the applicant, his request was not processed on time. The applicant's chain of command was not following the requirements to identify and counsel Soldiers eligible for CP. This miscommunicating was not the applicant's fault, and he should not be penalized for it. The applicant provided a complete CP BRS request form (albeit signed in September 2024) agreeing to 4 years of additional obligated service in the ARNG. He requested 4x his base pay to be paid in a lump sum. The Board reviewed and agreed with the NGB advisory official's recommendation that the applicant's CP be processed retroactively. Therefore, the Board determined relief is warranted.

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 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 (18 October 2023)
- showing the NGB timely received, approved, and processed his exception to policy
- providing the applicant the opportunity to open a case to pursue any retroactive matching and agency automatic TSP funds, if applicable, provided all other criteria is met

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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 pay CP under subsection (a) to a full TSP member when the member has completed not less than 8 and not more than 12 years of service in a uniformed service. Enters into an agreement with the Secretary to serve for not less than three additional years of obligated service. A full TSP member may elect to receive CP in a lump sum or in a series of not more than four payments.

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 an active duty member, shall not be less than 2.5 times the member's monthly basic pay.

c. The maximum amount the Secretary concerned may pay a member under this section is — 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.

//NOTHING FOLLOWS//