

IN THE CASE OF: [REDACTED]

BOARD DATE: 21 October 2024

DOCKET NUMBER: AR20240000866

APPLICANT REQUESTS: Basic Allowance for Housing (BAH) debt remission.

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

- DD Form 149 (Application for Correction of Military Record)
- DD Form 139 (Pay Adjustment Authorization), 1 August 2023
- DA Form 3508 (Application for Remission of Cancellation of Indebtedness), 15 November 2023
- Memorandum – Subject: Recommendation for Cancellation of Indebtedness, 14 July 2023
- Memorandum – Subject: Recommendation for Cancellation of Indebtedness, 29 July 2023
- Memorandum – Subject: Recommendation for Cancellation of Indebtedness, 31 July 2023
- Orders Number 153-236, 2 June 2022
- Orders Number 027-219, 27 January 2022
- Orders Number 024-207, 24 January 2022
- Text and email messages
- Leave and Earnings Statements (LES)
- Memorandum – Subject: Recommendation for Cancellation of Indebtedness, 27 November 2023

FACTS:

1. The applicant states in part that when he in-processed Soto Cano Airbase in July 2022, he was advised that he was entitled to BAH at the with dependent rate based on the Homebase Advanced Assignment Program (HAAP) location reflected on his permanent change of station (PCS) orders. He notes that he was entitled to BAH at the with dependents rate based upon having a dependent from his previous marriage. He further notes that prior to proceeding on reassignment, he was advised that he would likely only qualify for BAH - Differential due to him residing in government quarters. However, the finance office insisted that he was entitled to BAH with dependents and advised him to submit a DA Form 5960 (Authorization to Start, Stop, or Change Basic Allowance for Quarters (BAQ) and or Variable Housing Allowance (VHA)) accordingly.

In June 2023, he was advised that he incurred a \$20,423.18 BAH debt. Upon notification, he requested debt remission resulting in remission of 25 percent of the debt. He contests that the debt was the result of the responsible finance office personnel's lack of understanding of the Joint Federal Travel Regulation.

2. A review of the applicant's available service records reflects the following:

a. After serving as an enlisted Soldier, on 2 March 2017, the applicant was appointed as a warrant officer in the Regular Army.

b. On 15 November 2016, the applicant submitted DA Form 5960 requesting recertification of his BAH entitlement at the with dependent rate based upon his assignment at Fort Campbell, KY. The applicant was legally married to Ms. [REDACTED] on or about 21 December 2013.

c. On 13 March 2018, the U.S. Army Installation Management Command issued Orders Number 072-1008 reassigning the applicant to Fort Riley, KS, effective 8 August 2018.

d. On or about 11 June 2019, the applicant was divorced. The applicant and his former spouse shared one child (Date of Birth: [REDACTED]). The applicant was required to pay \$911.00 per month in child support, however both parties share custody (jointly) with the former spouse as the primary custodial parent.

e. On 24 January 2022, Headquarters, U.S. Army Garrison, Fort Riley issued Orders Number 024-207 reassigning the applicant to Honduras with a reporting date of 26 August 2022. The applicant is identified as a participant in the HAAP and elected to leave his family members at Fort Riley, KS, or move them to advanced assignment location while serving on this dependent restricted tour. The applicant was to proceed on temporary duty to Fort Rucker, AL, from 16 May 2022 – 28 July 2022.

f. On 13 December 2023, the Department of the Army issued Orders Number 6805571 reassigning the applicant to Hunter Army Airfield, GA, effective 19 February 2024.

g. On 24 July 2024, the applicant submitted DA Form 5960 requesting recertification of his BAH entitlement at the with dependent rate based upon having legal custody of his dependent child. The applicant was stationed at Hunter Army Airfield, GA, while his dependent child resided in Woodlawn, Virginia.

3. The applicant provides:

a. DD Form 139 dated 1 August 2023, reflective of the applicant being advised of the \$20,432.18 BAH debt. In July 2023, the Defense Finance and Accounting Service cancelled the applicant's BAH effective the date that he arrived in Honduras (20 June 2023). As the non-custodial parent, the applicant is not entitled to BAH at the with dependent rate, but he was receiving it. The applicant again notes that he was advised that he was authorized BAH at the with dependent rate during his in-processing.

b. DA Form 3508 dated 15 November 2023, reflective of the applicant's formal request for debt remission.

c. Memorandum – Subject: Recommendation for Cancellation of Indebtedness, dated 14 July 2023, reflective of the applicant's immediate commander's recommended approval of his request for debt remission. The commander also recommended that the debt be suspended noting that the applicant acted in good faith during in-processing.

d. Memorandum – Subject: Recommendation for Cancellation of Indebtedness dated 29 July 2023, reflective of the applicant's Task Force (Honduras) senior Commander's recommendation that his BAH debt be cancelled in full.

e. Memorandum – Subject: Recommendation for Cancellation of Indebtedness dated 31 July 2023, reflective of the Military Pay Non-Commissioned Officer in Charge (Honduras) recommendation for the cancellation of the applicant's BAH debt.

f. Orders Number 153-236 dated 2 June 2022, reflective of Orders Number 024-207 being amended to reflect a change of the additional instructions as it pertained to the shipment of unaccompanied baggage and his personally owned vehicle.

g. Orders Number 027-219 dated 27 January 2022, reflective of Orders Number 024-207 being amended to reflect authorization for the shipment of excess baggage.

h. Text and email messages reflective of communication concerning the applicant's BAH entitlement. In August 2022, the applicant was advised that he was entitled to BAH based on his location of assignment. There is no mention pertaining to which type of BAH he is entitled to during this period. In June 2023, the applicant inquired about his BAH entitlement. He notes that he is not the custodial parent and again notes that he was advised that he was entitled to BAH. There is no mention pertaining to which type of BAH he is entitled to during this period.

i. LES, reflective of the applicant's \$20,431.88 BAH debt; \$20,432.18 advance debt. The applicant is currently allotting \$912.00 in the form of a discretionary allotment. This debt is a combination of \$10,918.50 and \$9,513.68 worth of BAH overpayment. The applicant was entitled to BAH at a monthly rate of \$1,877.70 per month from

29 July 2022 – 31 December 2022 (\$9,513.68 total); \$2,183.70 per month from
1 January 2022 – 31 December 2022 (\$10,918.50 total)




j. Memorandum – Subject: Recommendation for Cancellation of Indebtedness, dated 27 November 2023, reflective of the partial approval (\$5,108.05) of the applicant's request for debt remission noting that review determined that there were no grounds to remit or cancel the remaining portion based upon hardship or injustice.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found relief was not warranted.
2. The Board carefully considered the applicant's statement, his marital and dependent custody status, his location at the time he incurred the debt, the correspondence and statements of support from his chain of command and finance offices and the review and conclusion by the Army Human Resources Command that relieved a portion of his debt. The applicant did not provide sufficient evidence to the Board to demonstrate that he was entitled to the BAH with dependents rate in accordance with Department of Defense 7000.14-R (Financial Management Regulation) Volume 7A, Chapter 26 (Basic Allowance for Housing (BAH)) as outlined in the Reference section below. Based on a preponderance of evidence, the Board determined that the collection of excess BAH payments as documented by the AHRC review was not in error or unjust.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

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

BOARD DETERMINATION/RECOMMENDATION:

The evidence presented does not demonstrate the existence of a probable error or injustice. Therefore, the Board determined the overall merits of this case are insufficient as a basis for correction of the records of the individual concerned.

4/28/2025

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. Department of Defense 7000.14-R (Financial Management Regulation) Volume 7A, Chapter 26 (Basic Allowance for Housing (BAH)) Section 3.3.2.4 (Child Support) provides that when a non-custodial parent Service member has a court-ordered child support obligation in an amount that is less than the required level of support and the Service member is not residing in, or assigned to, Government quarters, the Service member is authorized a with-dependent housing allowance for the child only if the Service member provides proof of support to the child at the required level.

a. Section 4.3.2 (Service Member Not Assigned to Government Quarters Pays Child Support) provides that if a non-custodial Service member is not residing in or assigned to Government quarters and pays support for the child in an amount equal to or more than the applicable BAH-Diff rate, the Service member is authorized a housing allowance at the with dependent rate based on the child. The support amount includes any court-ordered child support and any additional amount the Service member pays in addition to or in the absence of court ordered child support. If the Service member pays support in an amount below the applicable BAH-Diff rate, the Service member is only authorized a housing allowance at the without dependent rate.

b. Section 5.6. (BAH Diff) provides that a Service member assigned to single-type Government quarters or a single-type housing facility under a Uniformed Service jurisdiction is only authorized BAH-Partial. However, such Service member is entitled to BAH-Diff if the Service member is paying support to a biological child, adopted child, or stepchild in an amount equal to or greater than the applicable BAH-Diff rate. If the Service member's child support payment is less than the applicable BAH-Diff rate, BAH-Diff is not authorized. The BAH-Diff rate is a fixed, non-locality based rate and is the difference between the with-dependent Basic Allowance for Quarters (BAQ) rate and the without-dependent BAQ rate as of December 31, 1997, based on the Service member's grade and increased each year by the average pay raise percentage.

c. Section 10.2 (Service Member with Dependent) provides that a single or divorced Service member who maintains legal and physical custody of a child before receipt of a PCS authorization or order to an unaccompanied tour may continue to be paid BAH at the with-dependent rate for the last PDS, or designated place. The divorce decree or custody order issued by a court of competent jurisdiction must state the specific period during which the Service member has legal and physical custody. BAH at the with-dependent rate, is authorized only for time periods the Service member would have the physical custody of the child if not serving on the unaccompanied tour.

2. Army Regulation 600-4 (Remission or Cancellation of Indebtedness) in accordance with the authority of Title 10 USC, section 4837, the Secretary of the Army may remit or cancel a Soldier's debt to the U.S. Army if such action is in the best interests of the

United States. Indebtedness to the U.S. Army that may not be canceled under Title 10 USC, section 4837 when the debt is incurred while not on active duty or in an active status.

//NOTHING FOLLOWS//