

IN THE CASE OF: [REDACTED]

BOARD DATE: 6 December 2024

DOCKET NUMBER: AR20240002151

APPLICANT REQUESTS:

- Health Professions Officer (HPO) Incentive Pay (IP) to be corrected from 1 July 2019 through 30 June 2020
- Retroactive pay of HPOIP for post-graduate year (PGY) 2-4 effective from 1 July 2020 through 30 September 2023

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

- DD Form 149 (Application for Correction of Military Record)
- Memorandum, SUBJECT: Training Agreement for Army Graduate Medical Education (GME)
- Residency Training in Neurology Certificate
- Email Correspondence

FACTS:

1. The applicant did not file within the 3-year time frame provided in Title 10, U.S. Code, section 1552(b); however, the Army Board for Correction of Military Records (ABCMR) conducted a substantive review of this case and determined it is in the interest of justice to excuse the applicant's failure to timely file.
2. The applicant states that transitioning from PGY1 to PGY 2 involved signing a new contract which entails a different rate of HPOIP, but this was never changed and he was subsequently underpaid. He has been paid at the HPOIP rate of a PGY1 resident since the start of residency training on 1 July 2019. His contract was signed and submitted to his administrative office well before the date of increase of the HPOIP, which should have taken effect on 1 July 2020 and carried through 30 September 2023. To his knowledge, his administrative office never filed this contract, though he was serving in a residency training slot and completed such training as agreed upon.
3. A review of the applicant's service record shows:

a. Having had prior enlisted service in the Regular Army (RA) (28 December 2004 to 27 December 2008), and the Army National Guard (23 August 2010 to 22 August 2013), the applicant was ordered to active duty and appointed as an RA commissioned officer in the Medical Service Corps and executed an oath of office on 12 June 2015

b. On 9 September 2020 he was issued a Medicine License from the [REDACTED] Department of Health Professions.

c. The applicant's service record contains an Active Army Component HPO IP agreement, which shows on 19 October 2023, he was approved for HPO IP at a rate of \$43,000.00, a year, prorated monthly, effective 1 October 2023. His specialty and Area of Concentration was shown as "Neurology (BU) – Neurologist (60V)."

d. His record is void of any additional HPO IP agreements.

e. The applicant is currently serving in the Regular Army.

4. The applicant provides:

a. Memorandum, Subject: Training Agreement for Army GME, dated 13 November 2019 that states the applicant understood the requirements of the agreement and selected training Walter Reed National Medical Center in a Neurology program beginning on or about 1 July 2020 with a scheduled completion date of 30 June 2023.

b. A certificated issued by the National Capital Consortium that shows he successfully completed residency training in neurology from 1 July 2019 to 30 June 2023.

c. An email dated 23 December 2019, from the applicant to [REDACTED] stating he attached a contract pertaining to his PGY 2 year in Neurology .

5. On 11 November 2024, the Office of the Surgeon General (OTSG), Chief, Army Medical Department Special Pay Branch, provided an advisory opinion for this case and stated:

a. Officer requests retroactive Health Professions Officer Incentive Pay (HPO IP) with an effective timeframe, 1 July 2020 through 30 September 2023. A meticulous review of the relevant supporting documentation, special pay, and finance data confirms that the Officer is eligible to receive retractive payment with an effective date of 23 August 2022. This is the earliest effective after completion of qualifying training.

b. Considering the above discussion, the Officer is eligible for the requested timeframe. The Officer is eligible to receive \$25,999.90 (\$8,000/yr.) for the requested

timeframe. The Officer received \$3,900.00 for the 20200701-20230930 timeframe and must be deducted from the total amount eligible. The total amount eligible is \$22,099.90 (\$25,999.90-\$3,900.00). Defense Finance and Accounting Service – Indiana will calculate the exact arrears payment, ensuring a fair and accurate distribution of funds.

6. On 13 November 2024, the applicant was provided with a copy of the advisory opinion for comment or rebuttal. He responded via email that he did not have anything additional to add.

BOARD DISCUSSION:

After reviewing the application and all supporting documents, the Board determined partial relief was warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. Based upon the available documentation, the findings and recommendation of the OTSG advisory opinion and the lack of any rebuttal of those findings and recommendations by the applicant, the Board concluded there was sufficient evidence to show the applicant qualified for Health Professions Officer (HPO) Incentive Pay (IP) effective 23 August 2022, at a rate of \$8,000.00/year, and reducing the payment by \$3900.00 already paid to the applicant.

BOARD VOTE:

Mbr 1      Mbr 2      Mbr 3

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

BOARD DETERMINATION/RECOMMENDATION:

1. The Board determined the evidence presented is sufficient to warrant a recommendation for partial relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by showing the applicant qualified for Health Professions Officer (HPO) Incentive Pay (IP) effective 23 August 2022, at a rate of \$8,000.00/year, and reducing the payment by \$3900.00 already paid to the applicant.
2. The Board further determined the evidence presented is insufficient to warrant a portion of the requested relief. As a result, the Board recommends denial of so much of the application that pertains to the requested amount.

12/27/2024
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<div style="display: flex; align-items: center; justify-content: center;"> <div style="margin-right: 10px;">CHAIRPERSON</div> <div style="background-color: black; width: 250px; height: 20px;"></div> </div>

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 10, U.S. Code, section 1552(b), provides that applications for correction of military records must be filed within 3 years after discovery of the alleged error or injustice. This provision of law also allows the ABCMR to excuse an applicant's failure to timely file within the 3-year statute of limitations if the ABCMR determines it would be in the interest of justice to do so.
2. Department of Defense 7000.14-R, Financial Management Regulation, Volume 7A, Chapter 5, establishes policy pertaining to Health Professions Special and Incentive Pay.
  - a. Paragraph 6.2 (Eligibility) states, to be eligible for IP, an HPO must be: (1) Serving in an Active Component or Reserve Component of a Military Service and entitled to basic pay under Title 37, U.S. Code, section 204 or compensation pursuant to Title 37, U.S. Code, section 206; (2) Serving on Active Duty or in an active Reserve status in a designated health professional specialty; and (3) Eligible as prescribed in paragraph 2.4 (Eligibility).

b. Paragraph 6.3 (Amounts) states, annual payment amounts for IP contracts are listed in Tables 5-3 through 5-6 and paid in equal monthly payments. For the most current IP rates, see the Dental Corps IP/Retention Bonus (RB), Medical Corps IP/RB, Nurse Corps IP/RB, and Specialty IP/RB tables on DFAS.MIL.

c. Table 5-4A (Medical Corps IP and RB) shows that a Neurologist is authorized IP in the amount of \$43,000.00; annually (prorated monthly).

3. Army Regulation 15–185 (Army Board for Correction of Military Records) prescribes the policies and procedures for correction of military records by the Secretary of the Army, acting through the Army Board for Correction of Military Records (ABCMR). In pertinent part, it states that the ABCMR begins its consideration of each case with the presumption of administrative regularity. The applicant has the burden of proving an error or injustice by a preponderance of the evidence. The ABCMR will decide cases based on the evidence of record. It is not an investigative agency.

//NOTHING FOLLOWS//