

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 10 December 2024

DOCKET NUMBER: AR20240002184

APPLICANT REQUESTS: Blended Retirement System (BRS) Continuation Pay.

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

- DD Form 149 (Application for Correction of Military Record)
- Email Correspondence with Army Review Board Agency dated 24 February 2024
- Memorandum for Record, Subject: Appeal of Blended Retirement System - Continuation Pay (BRS-CP) dated 5 October 2023
- Email Correspondence in Reference to BRS-CP packet (139 pages)

FACTS:

1. The applicant states the error or injustice that needs to be corrected in his military records is the decline of his eligibility for BRS-CP due to his mandatory retirement date extension board, by regulation being held exactly 12 months before his mandatory retirement date, which pushed his time in service over 12 years despite the extension being in process. He believes this is in error or unjust because the BRS-CP was offered in 2021, at which time he was applying for an MRD extension and was told to reapply once complete. The process took over a year and once completed, he reapplied. The overworked unit administrator delayed his application and once submitted, he was informed that he was now over the 12-year maximum service limit. Ultimately, with his MRD being exactly 12 months after the extension board, he could not apply sooner. The included communications demonstrate his intent and diligent initiation of all processes in a timely manner, but the lag of the military system caused him to fall outside the requirements.

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

a. On 18 October 2010, the applicant was appointed as a Reserve commissioned officer in the rank/grade of captain (CPT)/O-3 and executed an oath of office.

b. DD Form 214 (Certificate of Release or Discharge from Active Duty) shows the applicant entered active duty on 30 May 2013 and was honorably released from the active duty on 3 May 2014 for completion of his required active service.

c. Orders Number B-12-708008 dated 4 December 2017, issued by U.S. Army Human Resources Command (AHRC), promoted the applicant to the rank/grade of major (MAJ)/O-4 with a date of rank of 8 November 2017.

d. DD Form 214 shows the applicant entered active duty on 15 February 2018 and was honorably released from the active duty on 18 January 2019 for completion of his required active service.

e. The applicant's Officer Record Brief (ORB) shows his Pay Entry Basic Date (PEBD) as 15 October 2010.

f. Memorandum for Commander, U.S. Army Civil Affairs and Psychological Operations Command, Subject: Deferral of Mandatory Removal Date (MRD) - MAJ J.E.K. dated 26 October 2022 indicate the Deputy Commanding General, U.S. Army Reserve Command approve the applicant's request to defer his MRD until 31 March 2027.

g. Orders Number 0008154710 dated 16 May 2024, issued by Department of the Army, promoted the applicant to the rank/grade of lieutenant colonel (LTC)/O-5 with a date of rank 20 March 2024.

h. The applicant completed 12 years of service on 15 October 2022.

i. The applicant remains in the Active Army Reserve Troop Program Unit (TPU).

3. The applicant provides:

a. Email Correspondence with Army Review Board Agency dated 24 February 2024, show he requested a status update of his application submitted reference BRS-CP appeal.

b. Memorandum for Record, Subject: Appeal of Blended Retirement System - Continuation Pay (BRS-CP), 5 October 2023, shows the applicant detailed his reasons for seeking to appeal. He initiated a request for MRD extension prior to the BRS-CP announcement even after receiving vague and unproductive guidance. His MRD extension process took over a year to complete since the board meets in October and his MRD was also in October so in the time of waiting for the system to process the request, he went over the 12 year service mark. He believes due to the policies and procedures of the Army, and no fault to him, he could not request an MRD extension earlier, and it was processed in a time frame that took him from not having 4 years left in service to now being over 12 years in service. The applicant states he served unselfishly at the expense of his family, serving two overseas combat tours and taking a command in his tenure and is being excluded from BRS-CP eligibility.

c. Email Correspondence (139 pages) reference the processing of his BRS-CP packet between the applicant and various agencies; OCAR, AHRC, Inspector General (IG), USARC and Civil Affairs Command.

4. On 10 October 2024, in the processing of this case, the Office of the Deputy Chief of Staff G-1 provided an advisory opinion referencing Title 37, United States Code, Section 356, Office of the Secretary of Defense, memorandum (Implementation of the Blended Retirement System), 27 January 2017; and Assistant Secretary of the Army (Manpower and Reserve Affairs), memorandum (Blended Retirement System (BRS) Continuation Pay (CP) - Calendar Year 2022 (CY22)), 27 January 2022. The advisory official states after careful review of the information provided, this office does not support the Soldiers request due to missing CP application form, which is the key supporting documentation required to support a CP request. Supporting documentation properly completed would indicate the authorized multiplier and compliance with the additional service obligation required for CP for CY22.

5. On 11 October 2024, the applicant was provided with a copy of the advisory opinion for comment or rebuttal. He responded and stated that he has attached the information he believes was requested by the G-1 staff, see the following:

- Personnel Action Packet Checklist dated 15 December 2022
- Request for Continuation Pay Blended Retirement System signed by the applicant and the certifying official on 14 December 2022, and by the approving authority on 29 March 2023; agreeing to serve 4 years from the date he signed this form
- Leave and Earning Statement for period covered 15 December 2022
- USAR Form 22-R (Adjustment Certification Worksheet) dated 14 December 2022
- DA Form 4856 (Developmental Counseling Form) dated 15 December 2022
- DD Form 577 (Appointment/Termination Record – Authorized Signature) dated 4 March 2023
- Email correspondence with a Staff Administrative Specialist dated 29 March 2023, that show his BRS CP packet was resubmitted after corrections and signatures were added.

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 evidence shows the applicant's PEBD is listed as 15 October 2010. He reached his 12th year of service on 15 October 2022. He submitted a CP-BRS form on 14 December 2022 which is beyond his 12th year of service. However, the Board also noted that the applicant initiated a request for MRD extension prior to the BRS-CP announcement but

his MRD extension process took too long to process. He could not request an MRD extension earlier, and it was processed in a time frame that took him from not having 4 years left in service to being over 12 years in service when he submitted his CP BRS. The Board agreed that this delay in processing his MRD extension negatively impacted his CP BRS submission, which is an injustice. 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 records of the individual concerned be corrected by:

- showing the applicant timely submitted his Request for Continuation Pay – Blended Retirement System (CP – BRS) on 14 October 2022 (prior to reaching 12 years of service)
- showing the appropriate office timely received, processed, and approved his request for CP BRS
- paying the applicant based on the appropriate pay grade in October 2022 from the 2022 pay scale, less applicable federal and state taxes (DFAS determines the exact amount), 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.

REFERENCES:

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

a. the Secretary concerned shall pay CP under subsection (a) to a full Thrift Savings Plan (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 a member of a Reserve Component, if the member is performing AGR duty (as defined in Title 10, USC, section 101(d)(6)), 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 AGR duty (as so defined) 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 Regular Component—the monthly basic pay of the member at 12 years of service multiplied by 2.5
- 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

//NOTHING FOLLOWS//