

IN THE CASE OF: [REDACTED]

BOARD DATE: 17 January 2025

DOCKET NUMBER: AR20240003100

APPLICANT REQUESTS: correction of her record to show she was paid Continuation Pay Blended Retirement System (CP BRS).

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

- DD Form 149 (Application for Correction of Military Record)
- DA Form 4836 (Oath of Extension of Enlistment or Reenlistment)
- Request for CP (BRS)
- Memorandum; Subject: BRS CP - Calendar Year 2023 (CY23)
- Leave and Earnings Statement (LES); February 2024
- DA Form 2823 (Sworn Statement)

FACTS:

1. The applicant did not file within the 3-year time frame provided in Title 10, U.S. Code (USC), 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 she was never counseled regarding CP and would have applied for it between her 8th and 12th year of service had she known it was an option. At this time, she has completed over 15 years of service; however between 8-12 years of service, she met all requirements for the CP. On 1 May 2019, she had 11 years of service completed. She signed an oath of extension for 6 years, which would have qualified her for CP as of that date. She is requesting to receive the pay retroactively to make up for the fact that she was unaware of the incentive.
3. A review of the applicant's service record shows:
 - a. She enlisted in the Army National Guard (ARNG) on 6 May 2008 for a term of 8 years.
 - b. Orders Number 254-008 issued by Joint Force Headquarters Colorado on

10 September 2012 ordered her to active duty in an Active Guard/Reserve status, effective 5 September 2012 for a term of 3 years.

c. Six DA Forms 4836 show she has reenlisted/extended in the ARNG on the following dates:

- 29 July 2015 for a term of 1 year
- 2 December 2015 for a term of 3 months
- 12 August 2016 for a term of 1 year
- 6 May 2017 for a term of 2 years
- 1 May 2019 for a term of 6 years
- 6 December 2024 for a term of 1 year

d. Orders Number 336-025 issued by Colorado ARNG, Joint Force Headquarters on 2 December 2015 promoted her to the rank/grade of staff sergeant/E-6, effective on with a date of rank of 2 December 2015.

e. The applicant completed her 8th year of service on 6 May 2016 and her 12th year of service on 6 May 2020.

3. The applicant provides:

a. A Request for CP (BRS) application that shows she requests two and a half times the monthly basic pay for her current pay grade and years of service in agreement to an additional obligated service of six years to be paid in a lump sum. The request was retroactively endorsed by the applicant for 1 May 2019. The request is void of signature by the certifying official and approval authority as well as a control number.

b. Memorandum; Subject: BRS CP - CY23 that establishes eligibility, amounts, and additional service obligation for CP in CY23.

c. A LES from February 2024 that shows she was enrolled in the BRS.

d. A DA Form 2823 dated 8 March 2024, in which she states "On 1 May 2019, while serving at the Colorado Medical Detachment, she extended for six years. At the time, she had completed eleven years of service which put her between the 8th-12th year window required to receive CP, and the extension qualified her to receive this incentive. However, no one counseled her about this incentive at the time. In 2024, she became the Retention Noncommissioned Officer for the 193rd Military Police Battalion and during training at this position, she learned for the first time about the CP incentive, and she requested more information. She learned that she was indeed qualified for this pay in 2019 when she signed her extension. She is requesting to have this incentive retroactively paid out since she was qualified for it at 11 years of service."

4. In the processing of this case, the Office of the Deputy Chief of Staff, G-1, Program Analyst, Compensation and Entitlements Division, provided an advisory opinion pertaining to CP BRS and stated:
 - a. After careful review, this office does not support the request for CP. The applicant is required to submit a completed, certified, and approved BRS CP CY19 CP application to support a claim of CP.
 - b. The CP application is missing block 6 (Control Number), block 9 (Certifying Official Printed Name, Rank, Signature, and Date), block 11 (Approving Official, Printed Name, Signature, and Date). The correct reference for item b should refer to CY19, i.e. SAMR 637-1, BRS CP CY19 policy dated 4 December 2018.
 - c. Supporting documentation properly completed would indicate the authorized multiplier and compliance with the additional service obligation required for CP for CY19. The missing information is required should the request be favorably considered.

5. On 5 December 2024, the applicant was provided with a copy of the advisory opinion for comment or rebuttal.
6. On 13 December 2024, the applicant provided a response via email.

- a. In an email that states she reached out to her incentives office in order to request a control number and appropriate signatures but received a response stating they could not provide a control number because they cannot "input a random date within a control number and hope it is good enough" and "the National Guard Bureau has now taken the responsibility of issuing all control numbers." Additionally, the response states if they were to sign her request that day, she would not be eligible since she is now outside of the window, and they are unsure anyone would sign something that is not factual or that she is eligible [sic] for.
 - b. Email correspondence between the applicant and the G1 Education and Incentives Noncommissioned Officer in Charge, requesting guidance on a retroactive CP BRS, how to find the request form and the corresponding policy from fiscal year 2019.

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 the National Guard Bureau, Chief, Special Actions Branch advisory opinion. The Board concluded despite the incomplete application; the applicant was eligible to receive CP BRS.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

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|--------------------------|--------------------------|--------------------------|----------------------|
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | GRANT FULL RELIEF |
| : | : | : | GRANT PARTIAL RELIEF |
| : | : | : | GRANT FORMAL HEARING |
| : | : | : | DENY APPLICATION |

BOARD DETERMINATION/RECOMMENDATION:

The Board determined that the evidence presented was sufficient to warrant a recommendation for relief. As a result, the Board recommends that all Department of the Army records and Army National Guard records of the individual concerned be corrected by:

- showing the applicant was in receipt of a completed continuation pay (CP) request prior to the completion of 12 years of service as computed from the PECD
- DFAS paying his entitlement to CP utilizing the Military Pay Account and not the ABCMR funds payable through Debts and Claims

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. Title 10, USC, 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. 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//