

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 14 January 2024

DOCKET NUMBER: AR20240003135

APPLICANT REQUESTS: published orders for the period 10 November 2020 thru 25 January 2021 and 24 July 2021 thru 30 November 2021, and correction of his DD Form 214 (Certificate of Release or Discharge from Active Duty) for the period ending 9 November 2020 to reflect continuous active-duty service from 30 August 2019 thru 30 November 2021, under Title 10, U.S. Code (USC), 12302 and 12301(h).

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

- ACTs Online Application
- memorandum, Adjutant General (TAG), North Carolina Army National Guard (NCNG), dated 26 February 2024
- Orders 29-242-0007, Title 10, USC, 12302, dated 30 August 2019, with five amendments
- Orders MM-0218-00034, Title 10, USC, 12301(h), dated 5 August 2020, with one amendment
- Orders NG-1026-00011, Title 10, USC, 12301(h), dated 26 January 2021, with one amendment
- Orders 29-1335-00006, Title 32, USC, 502(f)(1)(A), dated 1 December 2021
- DD Form 214, for the period ending 9 November 2020
- DA Form 199 (Informal Physical Evaluation Board (PEB) Proceedings), dated 2 May 2023
- Orders D 129-02, Headquarters, U.S. Army Physical Disability Agency (USAPDA), dated 9 May 2023
- Department of the Army Mobilization Processing System (DAMPS) Order Audit, ending 28 February 2022
- Orders, NCNG, dated 27 June 2023
- DA Form 5016 (Retirement Accounting Statement), dated 13 January 2024
- National Guard Bureau (NGB) Form 23B (Army National Guard (ARNG) Retirement Points History Statement), dated 14 February 2024
- memorandum, Line of Duty (LOD) Determination, dated 27 March 2020, with corresponding DA Form 2173 (Statement of Medical Examination and Duty Status)
- memorandum, LOD Determination, dated 6 October 2020, with corresponding DA Form 2173

FACTS:

1. The applicant states he should have been on continuous orders through 30 November 2021. As a Wounded Warrior, he was not paid from 10 November 2020 thru 25 January 2021 and 24 July 2021 thru 30 November 2021. The DD Form 214 he was issued upon release from active duty (REFRAD) does not reflect approximately 211 days of active duty status. He was involuntarily medically separated from the NCNG and was placed on the Permanent Disability Retired List (PDRL).
2. The applicant enlisted in the Army National Guard of the United States on 15 December 1999.
3. On 30 August 2019, he was ordered to active duty in support of Operation Enduring Freedom (Spartan Shield), for a period of 382 days, with a report date of 30 August 2019. The order was finally amended to change the period of active duty to 348 days.
4. On or about 16 October 2019, the applicant deployed to Camp Buerhing, Kuwait.
5. Upon redeployment through the Mobilization Force Generation Installation (MFGI), the applicant was retained on active duty under the provisions of Title 10, USC, Section 12301(h), for participation in the Reserve Component Warriors in Transition Medical Retention Program (MRP), for a 60-day period with a report date of 12 August 2020. The order was subsequently amended, extending the end date to 9 November 2020.
6. The applicant was honorably REFRAD and returned to the control of the NCNG on 9 November 2020, under the provisions of Army Regulation 635-200 (Active Duty Enlisted Administrative Separations), Chapter 4, by reason of completion of required active service. His DD Form 214 contains the following entries:
 - item 12fa (Date Entered Active Duty) - 30 August 2019
 - item 12b (Separation Date This Period) - 9 November 2020
 - item 12c (Net Active Service This Period) - 1 year, 3 months, and 14 days
7. On 26 February 2021, the applicant was ordered to active duty, under the provisions of Title 10, USC, Section 12301(h), for a 130-day period, for the purpose of participating in the Reserve Component Managed Care – Mobilization (RCMC-M) Program, with an end date of 4 June 2021. The order was subsequently amended, extending the tour length to 179 days with an end date of 23 July 2021.
8. Orders Number 29-1335-00006, State of North Carolina, Office of the Adjutant General, dated 1 December 2021, ordered the applicant to Full-time National Guard Duty – Operational Support (FTNGD-OS), from 1 December 2021 to 28 February 2022, for the purpose of RCMC gap.

9. A DA Form 199 shows that a PEB convened on 2 May 2023 found the applicant physically unfit for duty. The PEB recommended a 30 percent disability rating and a disposition of permanent disability retirement. The applicant concurred with the board findings and waived a formal hearing.

10. Orders Number D 129-02, Headquarters, USAPDA, dated 9 May 2023, and NGB Form 22, show the applicant was honorably released from the NCNG and the Reserve of the Army on 8 June 2023 and placed on the PDRL, effective 9 June 2023.

11. The applicant provides:

a. A memorandum from TAG, NCNG, dated 26 February 2024, shows the TAG is aware of this issue which affected several Soldiers from the NCNG who were mobilized in support of Operation Enduring Freedom (Spartan Shield). The break in active-duty service created severe hardship and duress to Servicemembers and their families, including suspension of pay, allowances, and benefits, incurred out of pocket medical expenses, and in some cases, no medical care at all. The NCNG has diligently tried to rectify the situation. The TAG requests expedited action from the ABCMR in the restoration of medical benefits, pay, and allowances.

b. Multiple orders retaining the applicant on active duty, and a DD Form 214, which are included in his service record and are summarized above, show the following:

- Orders 29-242-0007; mobilization; 12302; report 30 August 2019; 382 days; finally amended to 348 days
- Orders MM-0218-00034; MRP; 12301(h); report 12 August 2020; end 10 October 2020; amended to end 9 November 2020
- Orders NG-1026-00011; RCMC-M; 12301(h); report 26 January 2021; end 4 June 2021, amended to end 23 July 2021
- Orders 29-1335-00006; FTNGD-OS; 502(f)(1)(A); report 1 December 2021; end 28 February 2022
- DD Form 214, for the period 30 August 2019 to 9 November 2020

c. A DAMPS Order Audit, shows all of the orders that were issued to the applicant from 30 August 2019 thru 28 February 2022, showing a 79 day gap in orders from 10 November 2020 to 25 January 2021 and a 132 gap in orders from 24 July 2021 to 30 November 2021, equaling a total gap of 211 days.

d. The applicant's DA Form 5016, dated 13 January 2024 and NGB Form 23B, dated 14 February 2024, provide a detailed listing of duty status and retirement points earned from 15 December 1999 to 15 December 2023.

e. Two LOD determinations, dated 27 March 2020 and 6 October 2020, and the corresponding DA Forms 2173 show the applicant sustained injuries or illnesses, which were found to be in the line of duty while he was mobilized in support of Operation Enduring Freedom (Spartan Shield).

BOARD DISCUSSION:

After reviewing the application and all supporting documents, the Board determined relief was warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. Based upon the facts outlined in the endorsement from the NC Adjutant General of the applicant's request, the Board concluded there was sufficient evidence of an error or injustice warranting a change to the applicant's record to show continuous service through 30 November 2021, by publishing appropriate orders for the periods of 10 November 2020 through 25 January 2021 and 24 July 2021 through 30 November 2021.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

■	■	■	GRANT FULL RELIEF
:	:	:	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 Army records of the individual concerned be corrected by amending the applicant's military by:

- changing orders MM-0218-00034AA01, dated 23 October 2020, to show an end date of 30 November 2021
- voiding orders NG-1026-00011, dated 26 January 2021
- voiding orders NG-1026-00011A01, dated 25 May 2021
- changing the applicant's DD Form 214, for the period ending 21 December 2020 by:
 - changing 12b to read, "2021 11 30"
 - changing 12c to read, "0002 03 01"

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. Headquarters, Department of the Army (HQDA), Executive Order (EXORD) 048-20 (Warrior Care and Transition Program Restructure).

a. Beginning in April 2007, the Army established Warrior Transition Units (WTU) at mid to large sized installations in response to shortfalls in outpatient care. The Warrior Care and Transition Program (WCTP) provides a continuum of integrated care and services from point of injury, to return to duty or transition from active duty. An interdisciplinary team (IDT) including Army leaders and non-clinical case managers ensure the best access to care for the Army's seriously wounded, ill, and injured (WII) Soldiers.

b. In response to Army Senior Leadership guidance, U.S. Army Medical Command (USAMEDCOM), WCT conducted a holistic overview of the program. Guidance for the overview included an analysis of overhead, unit location, a return to single entry criteria focused on complex case management, and command structure.

c. Mission: No later than 1 October 2020, the Army implements WCT Program restructure and reform measures across 14 units in order to optimize the organization while remaining the premier program for the healing and transition of wounded, ill and injures Soldiers.

d. Purpose: The purpose of the restructure is to provide the highest quality of care for the Army's WII while exercising stewardship of limited resources of medical care, personnel, funding, facilities, and time. Restructure efforts provide focused care, streamline processes, and reduce overhead. The humanity, dignity and respect of each individual Soldier remains paramount as the program remains scalable to meet future requirements.

e. Implement single entry criteria pending the publication of a Department of the Army (DA) Directive changing entry policy to ensure program is designed to support complex case management of the Army's seriously WII Soldiers.

f. Establish remote management options to ensure medial case management for non-complex Reserve Component (RC) Soldiers who are authorized evaluation and/or treatment while on active duty orders but who do not meet new Army Recovery Care Program (ARCP) entry criteria (remote medical management (RM2) for U.S. Army Reserve (USAR), Reserve Component Managed Care (RCMC) for Army National Guard (ARNG).

g. Decisive to this transition is the implementation of single entry criteria and entrance of non-complex RC Solders into RM2 or RCMC, scheduled for 1 January 2020.

h. Phase II: Remote management of non-complex USAR Soldiers no later than 31 December 2019. Incorporation of the RC disposition recommendation into the Army Senior Commander's decision on Soldier entry.

i. Phase III: This phase begins on 1 January 2020 with the implementation of single entry criteria. This phase ends on 1 March 2020 when WTUs are prepared for the transition to single unit Soldier Recovery Unit (SRU) structure and RM2 is operational. Non-complex RC Soldiers may request to transfer to RM2 while maintaining their access to service. ARNG Soldiers complete evaluation and medical management within the RCMC Program.

j. Single entry criteria is defined as: Soldier has, or is anticipated to receive, a profile of more than six months duration, with duty limitations that preclude the Soldier from training or contributing to unit mission accomplishment; the complexity of the Soldier's condition requires either clinical case management or the Soldier's

psychological condition is evaluated by a qualified licensed medical or behavioral health provider as posing a substantial danger to self or to others if Soldier remains in the parent unit.

k. Beginning 1 January 2020, non-complex RC Soldiers are ineligible for SRU entry based on the revised single entry criteria. However, in accordance with references, they are entitled to remain on or return to active duty to complete medical evaluation and treatment.

l. Beginning 1 January 2020, non-complex ARNG Soldiers are eligible for remote management through the RCMC program. The ARNG administratively and medical manages Soldiers enrolled in the RCMC program.

2. HQDA EXORD 048-20 Warrior Care and Transition Program, Message DTG 181511 August 2021. Establish remote management options to ensure medical case management for non-complex RC Soldiers who are authorized evaluation and/or treatment while on active duty orders but who do not meet ARCP single entry criteria. Noncomplex ARNG and USAR Soldiers will be managed through the RM2 program. On 15 February 2021, ARNG Soldiers are eligible to apply for enrollment in RM2 and are attached to the SRU. HQ platoons manage all RC RM2 Soldiers assessed by the WTU as non-complex (ARNG and USAR); these Soldiers continue their Comprehensive Recovery Plan (CRP) and receive services, internships, and transition resources already established until complete. Provide funding for movement of USAR and ARNG Soldiers not funded by mobilization orders to include movement from Mobilization Force Generation Installations (MFGI) site to SRU for evaluation; movement from SRU to RM2 duty location; movement from RM2 duty site to SRU when directed by the SRU commander.

3. Message: Appendix 1 (Triad of Leadership and Entry/Exit) to Annex C to EXORD 048-20. ARNG Soldiers demobilization from an MFGI are returned to their home station on medical retention processing evaluation (MRP-E) orders. The Soldier is managed by ARNG case management resources while the diagnosis and treatment plan are determined. Based upon the diagnosis, care plan, access to care and other criteria, the ARNG determines whether the Soldier meets the SRU entry criteria or qualifies for the RCMC program. From the MFGI site, if assessed that the Soldier meets entry criteria, the ARNG may submit a standardized entry packet with disposition recommendation to the ARCP.

4. Fragmentary Order (FRAGO) 48 to Operations Order 20-29. The COVID-19 pandemic has contributed to increased delays in access to care for ARNG Soldiers managed in their home communities. Due to these delays, ARNG leadership directed that as of 15 February 2021 demobilizing ARNG Soldiers would be evaluated at SRU and would participate in the SRU RM2 program when qualified.

a. Effective 15 February 2021, ARNG Soldiers demobilizing through MFGI sites who meet the criteria for further medical evaluation/treatment of 12301(h) active duty orders will be completed the at evaluation at a SRU on a 60 day SRU-E (Evaluation order).

b. ARNG Soldiers will no longer be eligible to return to their home of record on a MRP-E 12301(h) active duty order.

c. RC Soldiers demobilizing or pending release from a period of active duty greater than 30 days with an unresolved medical condition(s) resulting in duty restrictions and who are pending additional evaluation (e.g., lab work, X-Ray, MRI, etc.) before a final diagnosis and treatment plan is determined, are eligible to remain on 12301(h) active duty orders for further medical evaluation/treatment at an SRU. These Soldiers are identified during the demobilization medical examination and placed (with their consent) on 12301(h) evaluation orders (SRU-E).

5. Appendix 2 (RM2) to Annex C (Operations) to HQ EXORD 048-20 Warrior Care and Transition Program Restructure. Section 3.B.2A: ARNG Soldiers who do not meet the single entry criteria may qualify for remote management under the RCMC Program. This program is managed by the ARNG. RCMC is not affiliated with the SRU or RM2 Programs.

6. Army Regulation 15-185 (ABCMR) prescribes the policies and procedures for correction of military records by the Secretary of the Army, acting through the ABCMR. The regulation provides:

a. 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. It is not an investigative body.

b. Applicants do not have a right to a hearing before the ABCMR. The Director or the ABCMR may grant a formal hearing whenever justice requires.

7. Army Regulation 635-8 (Separation Processing) provides that the DD Form 214 is a summary of the Soldier's most recent period of continuous active duty. It provides a brief, clear-cut record of all current active, prior active, and prior inactive duty service at the time of release from active duty (REFRAD), retirement, or discharge.

a. When separation is ordered, the separation approval documents must be present for transition processing to occur. Source documents, as listed below, must be present in a Soldier's record in order to complete the DD Form 214. Source documents will consist of:

- Service Member's Record Brief

- Separation approval documents
- Separation order
- Any other document authorized for filing in the Army Military Human Resources Record

b. DD Form 214, Item 12b (Separation Date This Period) will contain the Soldier's transition date. This date may not be the contractual date if the Soldier was separated early, voluntarily extends, is extended to make up lost time, or is retained on active duty for the convenience of the Government.

8. Army Regulation 600-8-105 (Military Orders) provides that orders are published to order individuals onto active duty or change the status of military personnel on active duty. Only the organization that published the original order may amend, rescind, or revoke the order. When there is no evidence of fraud or obvious error and the Soldier received actual or constructive delivery, orders discharging a Soldier from the service will not be revoked after the effective date of discharge unless the revocation is a written confirmation of verbal orders issued before the effective date of discharge. An order may be corrected by the organization that published the original order to show the true state of affairs existing at the time the original order was published. Orders may only be changed to reflect facts that existed when the original order was published.

//NOTHING FOLLOWS//