

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 15 November 2024

DOCKET NUMBER: AR20240004392

APPLICANT REQUESTS: cancellation of his indebtedness associated with previously received Basic Allowance Housing (BAH).

APPLICANT'S SUPPORTING DOCUMENT(S) CONSIDERED BY THE BOARD:  
DD Form 149 (Application for Correction of Military Record).

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 he was receiving BAH since he was married. During his deployment, he was not authorized the storage of his household goods but was receiving BAH. However, during his deployment he and his spouse divorced. When his unit was redeploying his unit did not explain to him why his BAH was retroactively revoked which caused his indebtedness.
3. On 24 September 2024, in the processing of this case, the Defense Finance and Accounting Service provided information regarding the applicant's indebtedness. The official stated the applicant had two debts, one for recoupment of the unearned portion of his REB due to his discharge from active duty and overpayment of BAH during the period of 3 March through 20 November 2011. The Defense Debt Management System shows the applicant had an original debt in the amount of \$22,106.49 plus interest, penalties and administrative fees in the amount of \$4,223.20. The applicant paid \$15,356.07 towards the debt. \$7,786.27 of the debt and \$3,187.35 of interest, penalties and administrative fees have been written off.
4. A review of the applicant's service record shows:
  - a. On 16 November 2005, the applicant enlisted in the Regular Army (RA).

b. On 21 December 2007, the applicant reenlisted in the RA. Evidence of the applicant's receipt of a Reenlistment Bonus (REB) was void from his service record; however, his DD Form 4 (Enlistment/Reenlistment Document Armed Forces of the United States) shows he received a lump sum payment in accordance with Military Personnel Message Number 07-344 (Selective Reenlistment Bonus - Enhanced Program) in the critical military occupational specialty 25S (Satellite Communication System Operator/Maintainer) which shows a specialist (SPC) / E-4 who reenlists for over 60-months was eligible to received \$23,000.00 in zone A.

c. The applicant's service record is void of his marriage or divorce documents. However, his DD Form 93 (Record of Emergency Data) dated 10 July 2009 shows the applicant was single.

d. He served in Afghanistan from 10 December 2007 to 1 March 2009.

e. On 29 July 2009, Permanent Orders Number C2-210-021, issued by Headquarters (HQs), U.S. Army Garrison, Hawaii, the applicant was deployed in a Temporary Change of Station (TCS) status on or about 8 September 2009 in support of Operation Iraqi Freedom. The orders also show the applicant's marital status was single and he was authorized temporary storage of his household goods for the period of the contingency operation.

f. DD Form 93 dated 5 August 2010, shows the applicant's marital status as married.

g. On 15 September 2010, Orders Number SB-258-0010, issued by HQs, U.S. Army Garrison, Hawaii, the applicant was deployed in a TCS status on or about 3 December 2010 in support of Operation Iraqi Freedom. The orders also shows the applicant was authorized temporary storage of his household goods, but it may impact his authorization for BAH. It also shows active duty Soldiers BAH was based on their permanent duty station.

h. On 1 September 2011, the applicant accepted nonjudicial punishment under the provisions of Article 15, Uniform Code of Military Justice for wrongful use of marijuana. His punishment included reduction in rank/grade to specialist (SPC)/E-4, forfeiture of \$1,115.00 per month for 1 month, and 45 days extra duty. The applicant appealed the punishment and stated he was not guilty of the allegation against him because the command did not meet the element for wrongfulness in the charge against him. He unknowingly smoked a cigar which contained marijuana. The appeal was denied.

i. DD Form 93 dated 22 September 2011, shows the applicant's marital status as divorced.

j. He served in Iraq from 17 October 2010 to 15 October 2011.

g. On 5 December 2011, the applicant was discharged from active duty under the provisions of Army Regulation 635-200 (Active Duty Enlisted Administrative Separations), paragraph 14-12c (misconduct, serious offense) with an under honorable conditions (General) characterization of service. DD Form 214 (Certificate of Release or Discharge from Active Duty) shows the applicant completed 6 years and 20 days of active service).

BOARD DISCUSSION:

After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was not 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 available military records, the Board found the applicant failed to update his marital status for receipt of basic allowance for housing (BAH) which incurred a debt. Based on this the Board determined relief was not warranted and denied relief.

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.

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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:

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. Army Regulation (AR) 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.

3. Department of Defense Financial Management Regulation 7000.14-R, Volume 7A, chapter 26 (Basic Allowance for Housing (BAH)), paragraph 2603 (Members with Dependents), a member who is entitled to basic pay is entitled to BAH at the rates prescribed for members with dependents when:

a. Adequate government quarters are not furnished for the member and dependents without payment of rental charge.

b. Adequate government quarters are not furnished for the member's dependents, or all of the member's dependents are prevented by competent authority from occupying such quarters, even though quarters are assigned for the member's occupancy.

c. Dependents are not enroute or do not accompany the member to the permanent duty station, or the vicinity thereof, so as to preclude assignment of family quarters. Under such circumstances, the mere availability of quarters which could have been assigned does not negate the right of a member to the BAH for dependents.

d. Certification of Dependents Status. Effective April 20, 1999, each member who is entitled to BAH on behalf of dependents must provide recertification to the Secretary concerned indicating the status of each dependent of the member to support entitlement to BAH on behalf of dependents upon arrival at a new permanent duty station. If a member fails to provide the certification in a timely manner, stop BAH on behalf of dependents at the end of the month in which the certification is due, but continue to pay BAH at the appropriate partial or without-dependent rate unless the member is not entitled to that allowance for some other reason. Resume paying BAH at the without-dependent rate effective the date the member provides proper certification. Do not pay the higher rate retroactively in the absence of certification from the member's commander that the failure to recertify timely was for reasons beyond control of the

member. After initial certification, Reserve Component members must recertify dependency status at least every third year from the previous certification or upon change in dependency status. Annual redetermination of dependency is required for members who claim BAH on behalf of:

- Parents, parents-in-law, stepparents, parents-by-adoption, or in-loco-parentis
- Students 21 and 22 years of age
- Incapacitated children over 21 years of age
- Ward of a court

//NOTHING FOLLOWS//