

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 6 February 2025

DOCKET NUMBER: AR20240004606

APPLICANT REQUESTS: exception to policy for Continuation Pay (CP) under the Blended Retirement System (BRS).

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

- DD Form 149 (Application for Correction of Military Record)
- Divorce Decree, 28 February 2024
- Leave and Earnings Statement November 2023 – December 2023
- Request for Continuation Pay (Blended Retirement System), 29 March 2024
- Officer Record Brief, 7 April 2024

FACTS:

1. The applicant states:

a. She is requesting an exception to be paid CP since her Pay Entry Base Date (PEBD) is 12 December 2011 and she missed the window of her 12-year anniversary due to a complex and emotionally taxing divorce.

b. During the period when the bonus was announced she was in the midst of navigating a complex and emotionally taxing divorce. Where her now, ex-husband, was having an affair; their divorce was just finalized on 28 February 2024. This really took a big toll on her, and she was not in a good place mentally. The divorce process took a lot of her time, energy, and attention, as she tried to figure out how to navigate legal proceedings, financial arrangements, custody arrangements, and personal adjustments. With everything going on with the divorce and her heightened stress level, she may have missed communication about the bonus and became aware of it around January and took immediate action by applying for it. It is regrettable that she was not aware of the bonus at the time, but it was an unintended event of the significant personal challenges she was facing.

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

a. On 12 December 2011, the applicant was appointed as a Reserve commissioned officer and executed an oath of office.

b. Promotion Orders Number 0005723300 dated 17 August 2023, issued by the Department of the Army, promoted her to the rank/grade of major (MAJ)/O-4, effective 5 July 2023.

c. Request for CP BRS form showing the applicant requested CP BRS at 4x her monthly basic pay for her current pay grade in return for an additional obligated service of 4 years to be paid in one single, lump sum payment. The form shows she understood that she must complete the BRS opt-in procedures prior to completion of her 12th year of service, based on her PEBD, to be eligible to receive CP. The applicant and certifying official signed the form on 29 March 2024 and the form was endorsed by the approval authority on 6 April 2024.

d. The applicant completed 12 years of service on 12 December 2023.

e. DA Form 5016 (Retirement Accounting Statement) dated 10 January 2024, shows the applicant's PEBD date as 12 December 2011.

3. The applicant provides:

a. Divorce decree done and ordered by the Orange County Courthouse, Orlando, Florida dated 28 February 2024.

b. Three LES dated 3 November 2023 and 15 November 2023, indicating at the time she had 11 years of service and another LES dated 20 December 2023, indicating at that time she had 12 years of service.

c. The applicant's Officer Record Brief shows her PEBD as 12 December 2011.

4. On 8 January 2025, Headquarters, U.S. Army Reserve Command (USARC), G-1, Retirement Services Officer, provided an advisory opinion which stated:

a. USARC reviewed the applicant's documents and determined she has missed the window for BRS – CP. The applicant did not submit in a timely manner and there is no Exception to Policy.

b. No administrative relief granted.

5. On 13 January 2025, the applicant was provided with a copy of the advisory opinion for comment or rebuttal. She did not respond.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found relief was warranted.
  
2. The Board carefully considered the applicant's statement regarding mitigating factors, her record and length of service, her 12<sup>th</sup> year service anniversary and the date of her submission requesting BRS-CP. The Board considered the review, conclusions and recommendations of the USARC advising official. The Board found that the applicant was eligible to apply for and receive BRS-CP but for her untimely submission. The Board found her statement regarding the reason for the delay persuasive. Based on a preponderance of evidence, the Board determined that the denial of the applicant's request was unjust and a correction to her record was warranted.

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 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 of the individual concerned be corrected by:

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

[REDACTED]

[REDACTED]

[REDACTED]

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.

REFERENCE:

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//