

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 6 February 2025

DOCKET NUMBER: AR20240005091

APPLICANT REQUESTS: 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)
- Request for Continuation Pay (Blended Retirement System) Form, 18 March 2019
- DA Form 4836 (Oath of Extension of Enlistment or Reenlistment), 21 March 2019
- National Guard Bureau (NGB) Form 23B (Army National Guard (ARNG) Retirement Points History Statement), 23 April 2019
- Leave and Earnings Statement (LES), 1-31 March 2019
- DD Form 214 (Certificate of Release or Discharge from Active Duty) for the period ending 8 July 2019

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:

a. His request for CP was denied due to the document being hand signed prior to his 12-year anniversary. Guidance came out that the document had to be digitally signed on his 12-year date (23 March 2019).

b. He believes that this is unjust due to him being informed about the CP program on 19 March 2019. He was deployed in an austere environment at the time and was given very limited information by the deployed S1 on the program. He had no knowledge of this program prior to the above date. Furthermore, guidance on the program was emailed to his S1 on 25 March 2019 (two days after his 12-year anniversary). He and his chain of command hand signed the documents as quickly as

they could in a deployed environment and submitted for further processing. He also extended for three years on 19 March 2019; his request for CP was denied, but his extension was processed. He was overseas and deployed to Afghanistan/United Arab Emirates August 2018 to May 2019.

c. He understands that it has been five years since this was discovered. He was a sergeant (SGT)/E-5 at the time and did not have much experience with this process before. When he was told his options, he was told that it was likely that his request would be denied. In this position, he has had the opportunity to learn more and assist others with the same issue. Please consider his application, he agreed to extend partially due to being able to receive CP for an additional three years of service. His request for CP was denied, but his extension of three years was implemented.

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

a. On 23 March 2007, the applicant enlisted in the Wisconsin Army National Guard (WIARNG) and continually served through reenlistments and extensions.

b. DD Form 220 (Active-Duty Report), effective 11 June 2007, shows the applicant was ordered to active duty and completed Basic Combat Training on 24 August 2007.

c. DA Form 2-1 (Personnel Qualification Record) dated 16 April 2007, show his enlistment date as 23 March 2007.

d. DD Form 214 shows in block 12a (Date Entered Active Duty this Period) that the applicant entered active duty this period on 6 January 2009 and was honorably released from active-duty training on 5 March 2009 for completion of required active service.

e. DA Form 4836 dated 21 December 2011 shows in item 7 (Provisions and Computation of this Extension) that he extended his enlistment in the WIARNG for a period of 1 year changing his Expiration Term of Service (ETS) to 22 March 2014.

f. DA Form 4836 dated 9 May 2013 shows in item 7 that he extended his enlistment in the WIARNG for a period of 6 years changing his ETS to 22 March 2020.

g. DD Form 214 shows in block 12a that the applicant entered active duty this period on 30 November 2012 and was honorably released from active duty on 16 November 2013 for completion of required active service.

h. DA Form 4836 dated 23 May 2017 shows in item 7 that he extended his enlistment in the WIARNG for a period of 2 months and 9 days changing his ETS to 31 May 2020.

i. DD Form 214 shows in block 12a that the applicant entered active duty this period on 1 June 2017 and was honorably released from active duty on 4 July 2018 for completion of required active service.

j. DA Form 4836 dated 21 March 2019 shows in item 7 that he extended his enlistment in the WIARNG for a period of 3 years changing his ETS to 31 May 2023.

k. DD Form 214 shows in block 12a that the applicant entered active duty this period on 5 July 2018 in support of Operation Enduring Freedom (Spartan Shield) and was honorably released from active duty on 8 July 2019 for completion of required active service.

l. Promotion Orders Number 0000251422 dated 12 August 2020 issued by the WIARNG, Army Element Joint Force Headquarters, shows he was promoted to the rank/grade of staff sergeant (SSG)/E-6 with an effective date of rank of 11 February 2020.

m. DA Form 4836 dated 15 July 2021 shows in item 7 that he extended his enlistment in the WIARNG for a period of 2 years changing his ETS to 31 May 2025.

n. Promotion Orders Number 0001307038 dated 3 August 2021 issued by the WIARNG, Army Element Joint Force Headquarters, shows he was promoted to the rank/grade of sergeant first class (SFC)/E-7 with an effective date of rank of 1 August 2021.

o. DA Form 4836 dated 3 June 2024 shows in item 7 that he extended his enlistment in the WIARNG for a period of 6 years changing his ETS to 31 May 2031.

p. The applicant completed 12 years of service on 23 March 2019.

4. The applicant provides:

a. Request for CP BRS form showing the applicant requested CP BRS at 2.5x his monthly basic pay for his 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 he understood that he must complete the BRS opt-in procedures prior to completion of his 12th year of service, based on his PEBD, to be eligible to receive CP. The applicant signed (wet signature) the form on 18 March 2019 and the form was endorsed by a certifying official and the approval authority on 18 March 2019.

b. NGB Form 23B dated 23 April 2019, indicate a summary of his points earned towards retirement and that he was a mobilized WIARNG member calendar year 2019.

c. LES dated 1 – 31 March 2019, indicating at the time he had 12 years of service, and he was enrolled in the BRS.

5. On 16 January 2025, the Chief, Specials Actions Branch, NGB, provided an advisory opinion which stated:

a. After review of the applicant's submission, he provided his signed BRS-CP request, mobilization DD Form 214 indicating his location when he signed, Retirement Points Accounting Management (RPAM) statement to indicate his eligibility, and his LES. The applicant's LES indicates he is enrolled in BRS. He signed the BRS-CP request on 18 March 2019 and the approving official signed the same day. The applicant's Anniversary Year End (AYE) date is on 22 March as per his RPAM. The applicant's Date Initial Entry Military Service date is 23 March 2007; review of the applicant's DD Form 4 in Interactive Personnel Electronic Records Management System verifies his DIEMS date as it is the day he enlisted with the WIARNG. On 22 March 2019, the applicant would have completed 12 years of service. As of the date of signature on the BRS-CP request, the applicant had not reached his 12th anniversary. In accordance with Memorandum, Assistant Secretary of the Army (Manpower and Reserve Affairs), SAMR, 4 December 2018, Subject: Blended Retirement System Continuation Pay Implementation Guidance – Calendar Year 2019 and ALARACT 016/2019, the applicant met the eligibility criteria and completed the required documents prior to his 12th anniversary.

b. After review of the details in Guard Incentives Management System, it was determined the payments were not made.

c. It is the recommendation of this office that the applicant's request be approved. WIARNG concurs with this recommendation.

6. On 17 January 2025, the applicant was provided with a copy of the advisory opinion for comment or rebuttal. He 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 contentions, his record and length of service to include orders to active duty, his LES and BRS-CP request he provided that was signed by his commander, and the applicable regulatory guidance. The Board considered the review, conclusions and recommendations of the NGB advising official. Based on a preponderance of evidence, the Board determined that the applicant was

eligible for and made an application for BRS-CP that was completed in a timely manner and the relief was warranted to correct an injustice.

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 and Army National Guard 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 the PEBD
- showing that his request was accepted and approved by an appropriate authority
- DFAS paying his entitlement to CP utilizing the Military Pay Account and not the ABCMR funds payable through Debts and Claims

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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. Title 37 USC, 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.

3. Department of the Army Assistant Secretary of the Army (Manpower and Reserve Affairs), SAMR, 4 December 2019, Subject: Blended Retirement System (BRS) Continuation Pay (CP). This memorandum establishes eligibility, amounts, and additional service obligation for CP in CY19 as authorized in sections 634 and 635 of reference 1.a. and amended by section 633 of reference 1.b. And this guidance is effective immediately on 31 December 2019, and applies to Active Army, Army National Guard/Army National Guard of the United States, and United States Army Reserve Soldiers who are covered under the BRS.

a. For eligibility for Army National Guard member who:

- is covered under the BRS and has not previously received CP BRS; and
- will complete 12 years of service (PEBD) from 1 January 2007 to 31 December 2007) during CY19; and
- is a member of the Selected Reserve or otherwise a member of the Ready Reserve in a status in which the member is eligible to receive basic pay or inactive duty pay; and

- is eligible to enter into an agreement to serve the obligation period specified - Service Obligation
- in exchange for the CP described in paragraph 5, Soldiers must agree to serve 4 years of additional service in the component in which they are serving at the time CP is approved; the service obligation commences upon approval of the CP request

b. Inter-service transfers joining one of the Army's BRS eligible groups must complete the transfer before their 12th year of service based upon the PEBD. Army leaders will ensure these Soldiers were not paid CP by another service or component before executing a CP payment.

c. CP Amount. For those eligible to apply for CP during CY19, the CP amount will be computed as follows:

- AC and Title 10/Title 32 Active Guard/Reserve (AGR) Soldiers performing active service in a career status program; CP is 2.5 times the monthly basic pay, based on current pay grade and years of service at the time CP is approved
- Army Reserve and Army National Guard Soldiers serving in the SELRES (minus AGR); CP is 4 times the active duty monthly basic pay, based on current grade and years of service at the time CP is approved
- The service obligation commences upon approval of the CP request.

d. At a minimum, the BRS CP election packet will include proof of BRS enrollment status and request for CP. Within the application window, all Soldiers may submit their CP request once they become eligible for CP based upon the PEBD. Soldiers should submit their CP request no later than 30 days prior to completing their 12th year of service based upon PEBD.

//NOTHING FOLLOWS//