

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 19 February 2025

DOCKET NUMBER: AR20240005389

APPLICANT REQUESTS: remission or cancellation of indebtedness for funds deposited to his bank account as 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).

FACTS:

1. The applicant states:

a. He is requesting to retain the funds that were deposited to his bank account for the CP. He has been enrolled into the BRS program since 2018, back when he had 8 years of service. The issue with this program was that he was never properly informed that he needed to submit a CP request at his 12 years in service mark. If he would have known, he definitely would have done so. When he was properly informed by his finance advisor, he submitted the CP request and a couple of days later he received the funds into his bank account. He truly needs the funds for him, and his family and he hope the Board can understand his situation.

b. He is hoping the Board can understand that it was not his fault that he was not informed to submit the CP request at his 12-year mark. Now that he already has the funds in his account, he is simply hoping just for the Board not to collect it back.

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

a. On 14 January 2009, the applicant enlisted in the Regular Army (RA) and had continuous service through extensions or reenlistments.

b. Promotion Orders Number 259-89 dated 16 September 2021, issued by U.S. Army Human Resources Command, promoted the applicant to the rank/grade of Sergeant First Class (SFC)/E-7, effective 1 October 2021.

c. His Enlisted Record Brief (ERB) dated 25 November 2022, shows his Pay Entry Base Date (PEBD) as 14 January 2009.

d. The applicant completed 12 years of service on 14 January 2021.

e. The applicant remains on active duty in the RA.

f. The available service record is void of any documentation showing a completed request form for BRS CP.

3. On 31 January 2025, Office of the Deputy Chief of Staff G-1, Program Analyst Compensation and Entitlements Division, provided an advisory opinion which stated:

a. After careful review of the information provided, this office does not support the applicant's request. The applicant submitted the application for CP on 12 April 2024, however, the last day of eligibility for submission of CP was 14 January 2021.

b. No administrative relief granted.

4. On 31 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 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 and standard review based on law, policy and regulation. Upon review of the applicant's petition, available military records and office of the Deputy Chief of Staff, G-1 – Program Analyst Compensation and Entitlements Division advisory opinion, the Board concurred with the advising official recommendation of denial finding the applicant submitted the application for CP on 12 April 2024, however, the last day of eligibility for submission of CP was 14 January 2021.

2. The Board determined the applicant's record is void of any documentation showing a completed CP request form submitted within the required timeframe. The applicant submitted his CP application on 12 April 2024, more than three years after the eligibility window had closed. The Board found insufficient evidence to support remission or cancellation of the debt incurred due to the improper CP payment. The Board noted, the applicant remains on active duty, and the debt was incurred due to administrative error and late submission, not through fault of the Army. Therefore, relief is denied.

BOARD VOTE:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
:	:	:	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
XXX	XXX	XXX	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.

X //SIGNED//

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. Army Regulation (AR) 600-4 (Remission or Cancellation of Indebtedness) provides policy and instructions for submitting and processing packets for remission or cancellation of indebtedness to the U.S. Army. Requests for remission or cancellation of indebtedness must be based on injustice, hardship, or both. A Soldier's debt to the U.S. Army may be remitted or canceled on the basis of this regulation in cases arising from debts incurred while serving on active duty or in an active status as a Soldier.

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.

3. Public Law 114-92, National Defense Authorization Action (NDAA) for Fiscal Year (FY 2016, section 634 (CP for Full Thrift Savings Plan (TSP) Member with 12-Years of Service), (a) CP, the Secretary concerned shall make a payment of CP to each full TSP member of the uniformed services under the jurisdiction of the Secretary who:

- completes 12 years of service; and
- enters into an agreement with the Secretary to serve for an additional 4-years of obligated service

a. Amount, the amount of CP payable to a full TSP member under subsection (a) shall be the amount that is equal to 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; plus at the discretion of the Secretary concerned, the monthly basic pay of the member at 12-years of service multiplied by such number of months (not to exceed 13-months) as the Secretary concerned shall specify in the agreement of the member under subsection (a)

b. Timing of Payment, the Secretary concerned shall pay CP under subsection (a) to a full TSP member when the member completes 12 years of service. If the Secretary concerned also provides CP under subsection (c) to the member, that CP shall be provided when the member completes 12 years of service.

4. Deputy Secretary of Defense Memorandum dated 18 December 2019, Subject: Implementation of the BRS, implements guidance for the BRS for the Uniformed Services, which was authorized in Public Law 114-92 section 631 through 635 of the National Defense Authorization Act (NDAA) for Fiscal Year 2016. Members of the Uniformed Service are covered under the provisions of the BRS who served in a Uniformed Service for fewer than 12-years as calculated from their PEBD.

5. Army Regulation 637-1 (Army Compensation and Entitlements Policy), provides Department of the Army (DA) policies for entitlements and collections of pay and allowances for active duty Soldiers. Paragraph 18-26 (Continuation Pay), the BRS provides for CP in exchange for additional service obligation by Soldiers when they reach between the 8 and 12-years point in their career. Soldiers will receive a minimum of 2.5 times base pay for Regular component and .5 times base pay for Reserve components if they commit to a minimum of 3-years of additional service.

6. Department of the Army Assistant Secretary of the Army Manpower and Reserve Affairs memorandum dated 27 January 2021, Subject: Blended Retirement (BRS) Continuation Pay (CP) – Calendar Year 2022 (CY22) states the guidance was effective immediately and expired on 31 December 2021 and it applied to Regular Army (RA), Army National Guard/Army National Guard of the United States, and the U.S. Army Reserve Soldiers who were covered under the BRS.

For eligibility for RA Soldiers:

- covered under the BRS and has not previously received BRS CP; and
- will complete 12-years of service during the CY22 as computed from the Soldier's PEBD
- eligible to enter into an agreement to 4-year service the obligation period

//NOTHING FOLLOWS//