

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 5 February 2025

DOCKET NUMBER: AR20240005402

APPLICANT REQUESTS: exception to policy to show a request for Continuation Pay (CP) under the Blended Retirement System (BRS) was submitted and approved for Calendar Year 2019 (CY19) with the four-year service obligation beginning in CY19.

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

- DD Form 149 (Application for Correction of Military Record)
- Orders Number 277-047, 4 October 2017
- Orders x9
- Orders Number 0000076006.01, 31 October 2019
- Printout of Defense Joint Military Pay System for Reserve Component, 24 August 2023
- National Guard Bureau (NGB) Form 23A (Army National Guard (ARNG) Current Annual Statement), 26 November 2023
- Memorandum, Subject: Findings on Missing Continuation Pay Request for Major (MAJ) C- A- M-, 26 April 2024

FACTS:

1. The applicant states:

a. She opted into the BRS in November 2017. She entered her Time in Service (TIS) window for the CP BRS in CY19. She had inquired several times about the process and submitted a request to her unit. The Personnel Service Noncommissioned Officer (PSNCO) for 60th Troop Command was unaware that she was eligible to submit a CP request and failed to follow up with her on the CP process and secure the four-year commitment when she was in her window of 12 years TIS. She is asking to be able to recreate the lost request and be able to back date it to October 2019, when she was a mobilization (M-day) Soldier. She is also requesting that the 4-year service requirement count towards time served as she is still faithfully serving her obligation to the NCARNG.

b. There were several circumstances that lead to this error; she had completed an Interstate Transfer from Florida to North Carolina and served on Title 10 orders at the

NGB. She was in between states and did not have all the information required. When she started to inquire about CP, she was close to her 12-year TIS. Her PSNCO did not follow up with her on the process, and she thought she had lost the opportunity to apply once she was hired to active duty in November 2019. The NCARNG assigned the main tasking of the oversight of CP request to the Retention NCOs, to include the discussion with Soldier's entering their CP TIS window in hope of reminding those Soldiers who opted into BRS that they were now within their submission window for CP. It was later discovered that this process did help with the enlisted force but somehow missed a majority of the Officer Corps. It is believed this was due to officer's mandatory release dates being so far out that retention NCOs would never talk to them and the Retirement Services Officer rarely at that time received many requests for information on CP by officers.

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

a. On 26 November 2007, the applicant enlisted in the Florida National Guard (FLARNG).

b. Orders Number 8121017 dated 30 April 2008, issued by the Military Entrance Processing Station, Jacksonville, FL, ordered her to initial active duty for training to complete basic training and advanced individual training, effective 30 April 2008.

c. DD Form 214 (Certificate of Release or Discharge from Active Duty) shows that the applicant entered active duty this period on 30 April 2008 and was released from active-duty training on 13 September 2008 for completion of required active service.

d. DD Form 214 shows that the applicant entered active duty this period on 3 January 2011 and was honorably released from active duty on 2 June 2012 for completion of active-duty orders.

e. DA Form 4836 (Oath of Extension of Enlistment or Reenlistment) dated 6 December 2012, shows the applicant extended her term of service in the ARNG for 6 years changing her expiration term of service to 25 November 2019.

f. DD Form 214 shows that the applicant entered active duty this period on 3 June 2012 and was honorably released from active duty on 2 May 2013, for completion of required active service.

g. Orders Number 136-026 dated 16 May 2013, issued by the FLARNG, Office of the Adjutant General, attached her to 3rd Battalion, 211th Regiment, Regional Training Institute until completion of Officer Candidate School, effective 15 May 2013.

h. NGB Form 22 (Report of Separation and Record of Service) shows on 17 August 2014, she was honorably released from the FLARNG for appointment as a commissioned officer.

i. On 18 August 2014, the applicant was appointed as a Reserve commissioned officer in the rank of second lieutenant (2LT)/O-1 and executed an oath of office. She was subsequently extended temporary Federal recognition in the ARNG.

j. The applicant entered active duty for multiple periods of training and was honorably released from active duty for each period of service.

k. Orders Number 226-868, dated 14 August 2017, issued by the State of North Carolina, Department of Public Safety, Joint Force Headquarters, assigned the applicant to the NCARNG in the rank of first lieutenant (1LT)/O-2, effective 27 July 2017.

l. Special Orders Number 326, dated 14 December 2018, extended Federal recognition for the applicant's promotion to the rank/grade of captain (CPT)/O-3, effective on with a Date of Rank (DOR) of 27 November 2018.

m. The applicant completed 12 years of service on 26 November 2019.

n. Special Orders Number 187, dated 23 May 2023, extended Federal recognition for the applicant's promotion to the rank/grade of major (MAJ)/O-4, effective on with a DOR of 12 May 2023.

3. The applicant provides:

a. Orders Number 277-047 dated 4 October 2017, issued by the Florida National Guard, Office of the Adjutant General, transferred her through an interstate transfer to the NCARNG, effective 27 July 2017.

b. Nine set of orders indicating her transfer, training, and Active Guard/Reserve (AGR) service with the NCARNG.

c. Orders Number 0000076006.01 dated 31 October 2019, issued by the NCARNG, Army Element Joint Force Headquarters, indicated she was permanently assigned to the 60th Troop Command, effective 1 January 2018.

d. Defense Joint Military Pay System for Reserve Component dated 24 August 2023, a report that indicates that she was enrolled in the BRS effective 1 November 2019.

e. NGB Form 23A prepared on 26 November 2023, shows her current military membership status as ARNG AGR under Title 32 USC, State Controlled and ARNG Active Duty Operational Support.

f. Self-Authored statement response to the findings issued by the NCARNG G-1 Incentive Manager. The statement is provided to the Board in the supporting documents for their review.

g. On 26 April 2024, the Joint Force Headquarters, NCARNG, G-1, Incentive Manager, provided findings on missing CP which stated:

a. Upon review, the NCARNG Incentive Manager found the following discrepancies in the applicant's record. There is no documented proof to show that her unit submitted an approved CY19 request to the G1 Incentives Office given to them by the applicant. There is also no approved contract in the applicant's Interactive Personnel Electronic Records Management System (iPERMS). During the time in question CP contracts were submitted to the NGB via an email from the State Incentives Manager, both the contractor at NGB and the AGR resource within the NCARNG G1 Incentives Office have since left their positions making tracking down any email traffic impossible. There is no proof that any request was submitted to the State or NGB requesting for the applicant to receive CP.

b. The NCARNG G1 Incentives office has determined that the applicant should be eligible to retain her CP but since there is no contract, they do not have the authority to recreate a contract from CY19. The applicant is also not eligible to submit an exception to policy to the NGB because her CP request cannot be located, and she has since gone over 12 years TIS. Unfortunately, the NGB no longer has the authority to approve the State/applicant's request to recreate the contract and back date it for CY19. NGB confirmed with the State that the Army Board for Corrections of Military Records (ABCMR) is the only recourse the applicant has in requesting the option to be allowed to recreate/resubmit her lost request from CY19.

c. This office fully supports the applicant's request for her case to be reviewed by the ABCMR in hopes for an approval allowing the State/NGB to allow her to sign a new CY19 request for CP and allow it to be backdated to a date in October 2019 prior to her 12th year TIS as a M-Day Soldier and prior to her acceptance of an AGR position within the NCARNG. If the Board grants administrative relief, the payment should be based on the pay grade of O-3 with 12 years for pay purposes from the 2023 pay scale ($\$7,701.60 \times 2.5 = \$19,254.00$, gross entitlement, less applicable federal and state taxes).

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was 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 and available military records, the Board determined there is sufficient evidence to support the applicant's request for exception to policy for Continuation Pay (CP) under the Blended Retirement System (BRS) was submitted and approved for Calendar Year 2019 (CY19) with the four-year service obligation beginning in CY19.

2. The Board found the applicant's record shows eligibility for CP during that period: she was enrolled in BRS effective 1 November 2019, had completed 12 years of service as of 26 November 2019, and was serving as a captain (O-3) prior to accepting an Active Guard/Reserve (AGR) position. Although no CP contract or submission record exists in iPERMS or the G1 Incentives Office, the absence of documentation is attributed to personnel turnover and the lack of archival email records from the State Incentives Manager and NGB contractor. The Board acknowledged the NCARNG G1 Incentives Office who affirmed the applicant's eligibility and fully supports her request for relief.

3. The Board agreed, given the totality of evidence, including her consistent service history, documented BRS enrollment, and the timing of her transition to AGR status, the Board found sufficient justification to grant relief. The Board granted relief for an exception to policy to allow the applicant to recreate and backdate her CY19 CP request to October 2019, prior to her 12th year of service and AGR acceptance. Upon approval, the CP payment should be calculated based on the 2023 pay scale for an O-3 with 12 years of service, resulting in a gross entitlement of \$19,254.00, subject to applicable federal and state taxes.

BOARD VOTE:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
XXX	XXX	XXX	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 the Army records of the individual concerned be corrected to show the applicant was granted an exception to policy to allow the applicant to recreate and backdate her CY19 CP request to October 2019, prior to her 12th year of service and AGR acceptance. The CP payment should be calculated based on the 2023 pay scale for an O-3 with 12 years of service, resulting in a gross entitlement of \$19,254.00, subject to applicable federal and state taxes.

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. 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.

2. Department of the Army Assistant Secretary of the Army (Manpower and Reserve Affairs), SAMR, 26 October 2017, Subject: Blended Retirement System Continuation Pay Implementation Guidance - Calendar Year 2018. 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 and expires 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 (Pay Entry Basic Date (PEBD) from 1 January 2007 to 31 December 2007) during CY19; and
- is a member of the SELRES 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 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//