

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 11 March 2025

DOCKET NUMBER: AR20240006890

APPLICANT REQUESTS: correction of her record to show she was paid Continuation Pay (CP) Blended Retirement System (BRS).

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

- DD Form 149 (Application for Correction of Military Record)
- Memorandum; Subject: Continuation Pay for [Applicant]
- Email Correspondence
- USAR Form 26-R (Pay Document – Transmittal Letter)
- Personnel Action Packet Checklist
- Leave and Earnings Statement
- DD Form 577 (Appointment/Termination Record – Authorized Signature)
- Request for CP (BRS)
- Memorandum; Subject: Exception to Policy for Approval Continuation Pay 2021
- Memorandum; Subject: Letter of Lateness for [Applicant]
- USAR Form 22-R (Adjustment Certification Worksheet)
- Memorandum; Subject: Blended Retirement System Continuation Pay Provision Procedures Calendar Year (CY) 2022
- DA Form 4856 (Developmental Counseling Form)
- DA Form 2A (Personnel Qualification Record)
- Memorandum; Subject: Letter of Lateness
- Memorandum; Subject: Continuation Pay for [Applicant]
- Memorandum; Subject: BRS CP - CY22

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 she was entitled to receive CP. She had been advised by her S1 that she was not entitled to receive CP. After trying for over a year to request the

pay, submitting countless packets to all the relevant agencies, contacting the Office of the Chief Army Reserve to request an Exception to Policy (ETP) due to the inaccurate information provided by those who were supposed to complete the verification and submission of the packet to receive the payment, she was advised she had no other recourse. Through no fault of her own she did not receive the pay she was entitled to receive. She was provided inaccurate information and once she received information to submit the packet, it was denied without taking into account she had been told that she did not qualify. Her human resources personnel failed to provide correct information and did not submit the packet in a timely fashion.

3. A review of the applicant's available service record shows:

- a. She enlisted in the U.S. Army Reserve (USAR) on 26 November 2008.
- b. On 3 February 2009 she was ordered to initial active duty training.
- c. On 24 July 2009, she was honorably released from active duty training. Her DD Form 214 (Certificate of Release or Discharge from Active Duty) shows she completed 5 months and 22 days of net service this period.
- d. On 12 January 2020, she reenlisted in the USAR for a term of 6 years in the rank/grade of specialist/E-4.
- e. On 1 April 2021, the applicant was promoted to the rank/grade of sergeant/E-5.
- f. Request for CP (BRS) application shows she requested four times the monthly basic pay for her current pay grade and years of service in agreement to an additional obligated service of four years to be paid in a lump sum. The request was endorsed by the applicant on 30 November 2021, endorsed by the certifying official on 10 December 2021, and the approval authority on 16 February 2022.

4. The applicant provides:

- a. Memorandum; Subject: Continuation Pay for [Applicant] dated 18 July 2022, endorsed by the applicant's brigade commander that requests an ETP for the processing of the applicant's Request for CP (BRS). The memorandum states there were several issues with the processing and submission of the applicant's request, but ensures the applicant submitted all necessary documents and consistently followed up on the status of the request.
- b. Several emails between 20 May 2020 and 20 July 2022 that the applicant received and sent pertaining to her eligibility and request for CP BRS.

c. USAR Form 26-R dated 28 February 2022 that lists the following as attachments:

(1) Personnel Action Checklist dated 10 December 2021, with routing for final approval through United States Army Reserve Command (USARC) for the processing of the applicant's Request for CP (BRS).

(2) Leave and Earnings Statement for check dated 19 November 2021 that shows the applicant has Thrift Savings Plan (TSP) deductions and 12 years of service at the time.

(3) DD Form 577 dated 4 February 2022 that appointed [REDACTED] [REDACTED] as the certifying official for CP (BRS) forms.

(4) Request for CP (BRS) application that shows she requests four times the monthly basic pay for her current pay grade and years of service in agreement to an additional obligated service of four years to be paid in a lump sum. The request was endorsed by the applicant on 30 November 2021, endorsed by the certifying official on 10 December 2021, and the approval authority on 16 February 2022.

(5) ETP for Approval [of] CP 2021 dated 17 December 2021 that requests and ETP for approval of CP request for the applicant.

(6) Letter of Lateness for [Applicant] dated 6 January 2022 that states the Request for CP for the applicant was not submitted on time due to several issues with the migration of emails to convert to Army365 and the system failures that were Army-wide.

(7) USAR Form 22-R dated 16 March 2022 that requests processing of the applicant's Request for CP (BRS).

(8) Memorandum; Subject: BRS CP Provision Procedures CY 2022 dated 18 March 2022 from the Office of the Chief of Army Reserve that discusses the parameters in which the BRS authorizes CP for CY22.

(9) DA Form 4586 dated 7 May 2022 that counseled the applicant regarding her eligibility for CP.

(10) DA Form 2A that shows the applicant's date of rank to sergeant/E-5 as 1 April 2021 and her Pay Entry Base Date (PEBD) of 3 February 2009

d. A second letter of lateness dated 16 May 2022 endorsed by the applicant's Army Reserve Administrator that details the circumstances as to why the applicant's Request for CP (BRS) was not submitted prior to deadline required. This letter corroborates the

first letter of lateness and expounds on the situation that caused the second request to be returned due to incorrect data on the form.

e. A second ETP dated 18 July 2022 and endorsed by the applicant's brigade commander that requests an exception due to the applicant having submitted all required documentation but having issues with submission due to lack of timely endorsements.

f. Memorandum; Subject: BRS CP - CY22 issued by the Office of the Assistant Secretary, Manpower and Reserve Affairs that establishes the eligibility, amounts, and additional service obligation for CP in calendar year 2022 as authorized by Title 37, United States Code, Sections 356 and 373.

5. On 19 February 2025, in the processing of this case, Headquarters. U.S. Army Reserve Command (USARC), Retirement Services Officer, provided an advisory opinion pertaining to CP BRS. USARC reviewed the applicant's documents, but Soldiers cannot be granted BRS – CP once they have passed the 12-year mark Per Public Law 114-92, Fiscal Year 2016 National Defense Authorization Act. Their office recommends no administrative relief be granted.

6. On 26 February 2025, the applicant was provided with a copy of the advisory opinion for comment or rebuttal.

7. On 3 March 2025 she provided a rebuttal to the advisory opinion and stated:

a. She initially began receiving emails concerning Blended Retirement in May 2020. She was not aware of what BRS was and had no idea of Continuation Pay. She reached out to her Personnel (Sergeant (SGT) Fxxx) on 15 May 2020, but did not receive a response from SGT Fxxx until 27 May 2020. His response was an apology for not following up after she inquired again on 20 May 2020. In a subsequent email, SGT Fxxx stated she was not enrolled in the BRS system and therefore not entitled to CP. The opt-in deadline was 31 December 2018.

b. Her leadership failed her, the Army also failed her in that information regarding CP and BRS was not widely disseminated. Due to the lack of knowledge many Soldiers, such as herself missed the opportunity to receive CP BRS. Having the required signatures for approval and ETPs to support the request, it was sent for processing.

c. As a Soldier not familiar with the process of applying to receive CP, her chain of command and S1(Personnel Office) should have made the appropriate inquiries and provided correct information. The failure started on 28 May 2020 when SGT Fxxx stated she was not enrolled in the BRS. The missteps continued even after that initial action with individuals not providing correct guidance or escalating her concerns until the

correct answer was provided. Her last action was to file a request for assistance from Congressman [REDACTED]. Even after providing all the documentation, the Army informed the congressman's office that she was not enrolled in the BRS. After responding to the congressman providing a screenshot showing her enrollment, the Army's position it was beyond the deadline to apply, and she would not receive CP.

d. As a Soldier, she had done everything in her power to educate herself and those tasked with assisting her to obtain the benefit. Despite her attempts, the countless emails, and pleas for help, the Army denied her request. She did not know if she was eligible and sought guidance from two units and each of them failed to provide correct information. The failure to provide correct information and guidance resulted in her not receiving the benefit to which she is entitled.

BOARD DISCUSSION:

After reviewing the application and all supporting documents, the Board determined relief was warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. Based upon the available documentation, the findings outlined in the USARC advisory opinion, and the rebuttal of those facts submitted by the applicant, the Board found the applicant was inappropriately trained on the BRS requirements; resulting in an injustice warranting relief.

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 Army records of the individual concerned be corrected by showing t he applicant made a timely submission (prior to her completion of 12 years of service) requesting BRS CP, that the request was received by the appropriate agency, thus permitting payment of BRS CP to the applicant as requested. The specific amount of BRS CP to be determined by DFAS.

//SIGNED//  
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 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 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 memorandum dated 27 January 2022, Subject: Blended Retirement (BRS) Continuation Pay (CP) – Calendar Year 2022 (CY22) states the guidance was effective on 1 January 2022 and expired on 31 December 2022 and it applied to Regular Army (RA), Army National Guard (ARNG) /Army National Guard of the United States (ARNGUS), and the U.S. Army Reserve Soldiers who were covered under the BRS.

For eligibility for RA and Active Guard Reserve Soldiers:

- covered under the BRS and has not previously received CP BRS; and
- has completed no less than 8-years and not more than 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

For eligibility for Army Reserve and Army National Guard Soldiers:

- covered under the BRS and has not previously received CP BRS; and
- has completed no less than 8-years and not more than 12-years of service during the CY as computed from the Soldier's PEBD
- member of the Selected Reserve or otherwise a member of the Ready Reserve and eligible to receive basic pay or inactive duty pay; and
- eligible to enter into an agreement to 4-year service obligation period

//NOTHING FOLLOWS//