

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 6 March 2025

DOCKET NUMBER: AR20240006895

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)
- Memorandum, Subject: Blended Retirement System (BRS) Continuation Pay (CP) - Calendar Year 2022 (CY22) dated 27 January 2022
- Leave and Earnings Statement (LES) pay period 1-31 May 2023
- Request for Continuation Pay (Blended Retirement System) Form dated 7 May 2024
- Self-Authored Memorandum dated 7 May 2024
- LES pay period 1-31 January 2025
- Solider Talent Profile printed 12 February 2025
- Joint Knowledge Online Completion Certificate Blended Retirement (BRS) Opt-In dated 12 February 2025
- DA Form 4187 (Personnel Action) dated 12 February 2025

FACTS:

1. The applicant states the error to his records is CP under BRS not awarded due to missing the window for application. CP played a key role in his decision to opt into BRS, but he missed the window to apply due to a lack of information and expertise across the force during rollout. His year group was among the first CP windows to open and close which had a significant number of officers eligible, as he was among the only one of his peers to have opted into BRS at the time it was opened due to how close it was to being financially sensible for his year group. He has already served 2 of the 4 years that would have been the active-duty service obligation (ADSO) and would be willing to sign up whether it is for a 4 year ADSO starting now (ending 2028) or 4 year ADSO starting at the time his window closed (ending 2026).

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

a. The applicant is a graduate of the United States Military Academy and on 22 May 2010, he was appointed as a commissioned officer in the Regular Army (RA) in the engineer branch and executed an oath of office.

b. His Officer Record Brief dated 28 November 2022, shows his Pay Entry Basic Date (PEBD) as 22 May 2010 and his date of rank (DOR) to major (MAJ)/O-4 as 1 May 2021.

c. The applicant completed 12 years of service on 22 May 2022.

d. He remains on active duty in the RA.

3. The applicant provides:

a. Memorandum, Subject: Blended Retirement System (BRS) Continuation Pay (CP) - Calendar Year 2022 (CY22) dated 27 January 2022, which established eligibility, amounts, and additional service obligation for CP in CY22. Soldiers may elect to receive CP in a single lump sum or in a series of equal installments, not to exceed four annual payments over four consecutive years. Approval authority will be the requesting Soldier's immediate commander.

b. LES for the pay period of 1 through 31 May 2023 and as additional information an LES for the pay period of 1 through 31 January 2025, both indicate at the time he had respectfully 13 and 14 years of service and his retirement plan show he had opted into BRS.

c. 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, certifying official and approval authority endorsed the form on 7 May 2024.

d. Self-Authored Statement 7 May 2024 details the facts and circumstance surrounding his failure to submit the CP BRS request prior to the first day of his 12th year of service. He states he assumed command and deployed his company to Korea in 2018, redeployed and immediately entered an accelerated Graduate program at Georgia Tech, and then permanently changed of station (PCS) to instruct Reserve Officer Training Course (ROTC). During this period, he asked finance offices about BRS CP but got conflicting answers, including that it was automatic. The newness of BRS and the extremely distributed nature of his post-deployment finance offices (US Army Student Detachment and ROTC) resulted in a lack of access to expertise on BRS prevented him from researching CP BRS himself.

e. A copy of the applicant Soldier Talent Profile shows his PEBD as 22 May 2010 and his date of rank (DOR) to major (MAJ)/O-4 as 1 May 2021.

f. Joint Knowledge Online Completion Certificate for the BRS Opt-In course dated 12 February 2025.

g. DA Form 4187 (Personnel Action) dated 12 February 2025 shows the applicant requested an exception to policy (ETP) to his ADSO in order to receive CP under BRS. It also shows his Date Initially Entered Military Service (DIEMS) is 26 June 2006 and his PEBD as 22 May 2010.

4. On 20 February 2025, Office of the Deputy Chief of Staff G1, d (USARC), G-1, Program Analyst Compensation and Entitlement Division, provided an advisory opinion which stated:

a. After careful review of the information provided, it was recommended this case be approved in the interest of fairness and equity. The applicant presented documentation which reflected he was not provided with timely and accurate guidance in submitting the CP application prior to the 12th year of service, and otherwise would have submitted this request within the published timeframe. The applicant did submit a completed request for CP signed effective 7 May 2024; however, the end point prior to 12 years of service for pay was 22 May 2022.

b. The applicant's request for payment of CP should be made based on the date he would have been otherwise qualified for in accordance with reference 1.c, specifically, in the pay grade of O-4 with 12 years of service for pay on 22 May 2022.

c. If the board grants administrative relief, the payment would be based on the pay grade of O-4 with 12 years of service for pay purposes from the 2022 pay scale (\$8,284.50 x 2.5 = \$20,711.25 gross entitlement, less 22% federal withholding tax).

5. On 21 February 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 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 the Office of the Deputy Chief of Staff G-1 advisory opinion, the Board concurred with the

advising official recommendation for approval based on the interest of fairness and equity, citing the lack of timely and accurate guidance as a mitigating factor. Noting the applicant acted in good faith, would have otherwise qualified for CP, and has demonstrated a continued commitment to service.

2. The Board noted the applicant opted into BRS and completed 12 years of service on 22 May 2022, the critical date for CP eligibility. Based on the evidence provided by the applicant and the advisory opine, the Board granted relief approving the applicant's exception to policy request for Continuation Pay under the Blended Retirement System, with payment based on the 2022 pay scale for an O-4 with 12 years of service. The applicant's ADSO will be honored as grade of O-4 with 12 years of service for pay purposes from the 2022 pay scale ($\$8,284.50 \times 2.5 = \$20,711.25$ gross entitlement, less 22% federal withholding tax).

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 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:

1. showing the applicant was in receipt of a completed continuation pay (CP) request prior to the completion of 12 years of service as computed from the PEBD

2. DFAS paying his entitlement to CP utilizing the Military Pay Account and not the ABCMR funds payable through Debts and Claims. The payment would be based on the pay grade of O-4 with 12 years of service for pay purposes from the 2022 pay scale (\$8,284.50 x 2.5 = \$20,711.25 gross entitlement, less 22% federal withholding tax).

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 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 the obligation period

//NOTHING FOLLOWS//