

IN THE CASE OF: [REDACTED]

BOARD DATE: 21 April 2025

DOCKET NUMBER: AR20240007828

APPLICANT REQUESTS: Exception to Policy (ETP) to be paid Blended Retirement System Continuation Pay (BRS CP) after his 12th year of service with backdated Additional Service Obligation (ADSO).

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

- DD Form 149 (Application for Correction of Military Record)
- National Guard Bureau (NGB) Memorandum, Subject: BRS CP – Calendar Year 2023 (CY23), 29 March 2023, shows Army National Guard (ARNG) Soldiers:
  - Must be enrolled in BRS and not previously received BRS CP
  - On the date the Soldier signed the BRS CP request, must have completed at least 8-years but no more than 12-years of service based on the pay entry base date (PEBD) during CY23
  - Member of the Selected Reserve
  - Agree to an additional service obligation of 4-years
  - Non-Active Guard/Reserve (AGR) Soldiers paid four times monthly base pay
  - AGR Soldier paid 2.5 time monthly base pay
- BRS CP Request Form shows the applicant requested BRS CP on 19 April 2023:
  - Shows his Pay Entry Basic Date (PEBD) as 29 January 2008
  - Agreed to accept BRS CP in accordance with the ARNG BRS CP CY23 Guidance
  - For four times his monthly basic pay in his current pay grade
  - Agreed to an additional obligated service of 4-years
  - Requested a lump sum payment
- NGB Orders Number 207-06, 26 July 2023, which ordered him to AGR status, effective 2 October 2023
- Leave and Earnings Statement for period of 1 through 31 December 2023 shows the applicant was enrolled in the BRS

FACTS:

1. The applicant did not file within the 3-year time frame provided in Title 10, U.S. Code, 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 he would like his records corrected to:
  - Reflect the BRS CP request was submitted on time
  - BRS CP request was accepted and verified by the appropriate certifying and approval officials
  - Be paid four times his monthly base pay based on his current pay grade as an M-day Soldier
  - Requests ADSO to be back dated appropriately
  - Enrolled in BRS in 2016
  - ARNG states failed to properly inform him on the BRS CP request process
  - Submitted the BRS CP in March 2023 but was never actioned
3. A review of the applicant's service record shows:
  - On 29 January 2008, he was ordered to active duty to attend Officer Candidate School
  - On 9 July 2008, he was honorably released from active duty to accept a commissioned officer appointment
  - On 10 July 2008; he executed his oath of office and was appointed a Regular Army Engineer officer
  - Officer Record Brief dated 9 June 2011; shows his Basic Active Service Date (BASD) as 29 January 2008
  - On 3 November 2011, he was honorably released from active duty and assigned to the ARNG, DD Form 214 (Certificate of Release or Discharge from Active Duty) shows in:
    - Item 4a (Grade, Rate or Rank): captain (CPT)
    - Item 4b (Pay Grade): O3
    - Item 12i (Effective Date of Pay Grade): 1 September 2011
  - On 4 November 2011, he executed his oath of office and was appointed in [REDACTED] ARNG in the rank CPT
  - On 4 November 2011, he was appointed in the [REDACTED] ARNG by Special Orders Number 391 dated 7 November 2012

- His record shows he was ordered to active duty on multiple occasions and honorably released from active duty
- On 29 January 2020, he obtained 12-years of service based on his PEBD
- Officer Record Brief dated 25 February 2020 shows his PEBD as 29 January 2008
- On 30 September 2023, he was honorably released from active duty and transferred to his ARNG unit

4. On 8 April 2025, in the processing of this case, the NGB, provided an advisory opinion regarding the applicant's request for an ETP to be paid BRS CP outside his 12-years of service. The advisory official recommended approval of his request. The applicant enrolled in BRS through MyPay. He received an email on 17 April 2023 from the [REDACTED] ARNG Retirement Services Office about applying for BRS CP. He completed the BRS CP request on 19 April 2023 which was past his eligibility period. He was erroneously on the eligibility list for receipt of BRS CP in CY23. The applicant's PEBD is 29 January 2008 which would have made him eligible for BRS CP prior to his 12-years of service of 29 January 2020. He was not properly notified within his eligibility window by the [REDACTED] ARNG. Headquarters Department of the Army Execute Order 140-21 states Soldiers in BRS will complete training for BRS CP at least 90-days prior to the last date of eligibility through on-line training, face to face or group training.

5. On 9 April 2025, the Army Review Boards Agency, Case Management Division, provided the advisory opinion for review and comment.

6. On 9 April 2025, the applicant responded via e-mail stating he received notification of eligibility for BRS enrollment in 2015 and he enrolled in early 2016. At the time he opted into the BRS, he had 7-years of service and was deployed overseas. The first time he was notified of eligibility for BRS CP was in 2023. Prior to this time, he was not aware nor was he educated on BRS CP or the proper process for requesting it.

#### BOARD DISCUSSION:

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 record, the National Guard Bureau – Special Actions Branch advisory opinion, the Board concurred with the advisory official recommendation for approval, finding the applicant was notified in 2023 of his eligibility for BRS CP; however, his eligibility window, prior to the 12-years of service, was 29 January 2020. The Board agreed through no fault of his own, he was not properly notified within his eligibility window by the [REDACTED] ARNG. The Board determined there was sufficient evidence to grant relief.

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 the evidence presented is sufficient to warrant a recommendation for relief. As a result, the Board recommends all Department of the Army records of the individual concerned be corrected to show payment of the Blended Retirement System Continuation Pay (BRS CP) after his 12th year of service with backdated Additional Service Obligation (ADSO) to 29 January 2020.

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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, U.S. Code, 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. 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.

3. 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 a member of a Reserve Component, if the member is performing Active Guard/Reserve duty (as defined in Title 10, USC, section 101(d)(6)), 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.

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 18 December 2020, Subject: Blended Retirement (BRS) Continuation Pay (CP) – Calendar Year 2020 (CY20) states the guidance was effective 1 January 2020 and expired on 31 December 2020 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 11-years of service during the CY20 as computed from the Soldier's PEBD
- eligible to enter into an agreement to 4-year service the obligation period
- 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

6. All Army Activities Message 016/2019 refers to an official military communication that provides guidance on an "Extension to Implementation Guidance for ETP" which allows for the retroactive enrollment of certain eligible Soldiers into the Blended Retirement System (BRS) and also outlines a hardship extension for the enrollment period for specific cases; essentially giving Soldiers who might have missed the original BRS enrollment window a chance to join under specific circumstances.

//NOTHING FOLLOWS//