

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 7 March 2025

DOCKET NUMBER: AR20240008402

APPLICANT REQUESTS: entitlement to Medical Retention Processing – Evaluation (MRP-E) 12301(h) orders covering the period of 23 December 2020 – 25 January 2020.

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

- DD Form 149 (Application for Correction of Military Record)
- Orders Number 29-177-0113, 26 June 2019
- Orders Number 29-177-0113 (A2), 17 March 2020
- Orders Number 29-177-0113 (A3), 5 June 2020
- Orders Number MM-0266-00006, 22 September 2020
- Orders Number MM-0266-00006 (A01), 24 November 2020
- DD Form 214 (Certificate of Release or Discharge from Active Duty), 22 December 2020
- Orders Number 29-177-0113 (A4), 5 September 2020
- Orders Number 29-177-0113 (A5), 5 October 2020
- Orders Number NG-1026-00012, 26 January 2021
- Orders Number NG-1026-00012 (A01), 20 April 2021
- Department of Defense Instruction Number 1241.01 (Reserve Component (RC) Line of Duty Determination for Medical and Dental Treatments and Incapacitation Pay Entitlements)
- Memorandum – Subject: Line of Duty Determination, 1 July 2020
- DA Form 2173 (Statement of Medical Examination and Duty Status), 25 April 2020
- Memorandum – Subject: Request to Expedite ABCMR in the Restoration of Medical Benefits, Pay and Allowances, 26 February 2024
- Military Pay System Information
- Army National Guard Current Annual Statement, 19 May 2023
- DD Form 214, 6 June 2021

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 in pertinent part that after he returned from a 16-month deployment, his orders expired on 22 December 2020 and the Army National Guard (ARNG) failed to issue his DD Form 214 until April 2021. On 26 January 2021, the NCARNG issued additional orders. However, for a period of approximately 5-weeks in between the expiration of the previous orders and the issuance of the new ones, the applicant was unemployed and unable to apply for unemployment because of the delayed DD Form 214. The applicant relied entirely upon his accrued savings to take care of his family. He argues that the NCARNG gross failure to produce a DD Form 214 or orders bridging the gap of his active-duty service was an injustice to an already injured Soldier. Retroactive orders were not produced nor was any compensatory pay provided.

3. A review of the applicant's service records reflect the following:

- a. On 1 August 2008, the applicant enlisted in the ARNG.
- b. On 26 June 2019, the NCARNG issued Orders Number 29-177-0113 ordering the applicant to active-duty effective 18 August 2019, in support of Operation Enduring Freedom (Spartan Shield) for a period of 400 days.
- c. On 22 September 2020, Headquarters, U.S. Army Medical Command issued Orders Number MM-0266-00006 retaining the applicant on active duty to participate in Reserve Component Warriors in Transition Medical Retention for a period of 60 days (to expire on 22 November 2020).
- d. On 24 November 2020, Headquarters, U.S. Army Medical Command issued Orders Number MM-0266-00006(A01) amending Orders Number MM-0266-00006 to reflect 90 days rather than 60 days (to expire on 22 December 2020).
- e. On 22 December 2020, the applicant was released from active duty.
- f. On 26 January 2021, the National Guard Bureau (NGB) issued Orders Number NG-1026-00012 ordering the applicant to active duty under the provisions of Title 10 U.S.C. Section 12301(h) to participate in Reserve Component Managed Care (RCMS) - Mobilization Managed Medical Care effective 26 January for a period of 90 days (to expire on 25 April 2021).

4. The applicant provides the following:

- a. Orders Number 29-177-0113 (A2), 17 March 2020, amending Orders Number 29-177-0113 to reflect a duration of 430 days rather than 400 days.
- b. Orders Number 29-177-0113 (A3), 5 June 2020, amending Orders Number 29-177-0113 to reflect a duration of 479 days rather than 430 days.
- c. Orders Number 29-177-0113 (A4), 5 September 2020, reflective of Orders Number 29-177-0113 being amended to reflect a change in the line of accounting funding the applicant's service on active duty.
- d. Orders Number 29-177-0113 (A5), 5 October 2020, reflective of Orders Number 29-177-0113 being amended to reflect a change in the tour duration from 479 days to reflect 405.
- e. Orders Number NG-1026-00012, 26 January 2021, reflective of the applicant being ordered to active-duty for a period of 90 days in order to participate in Reserve Component Managed Care – Mobilization for Managed Medical Care.
- f. Orders Number NG-1026-00012 (A01), 20 April 2021, reflective of Orders Number NG-1026-00012 being amended to reflect a change in the tour length from 90 days to 132 day (6 June 2021 end date).
- g. Department of Defense Instruction Number 1241.01 (Reserve Component (RC) Line of Duty Determination for Medical and Dental Treatments and Incapacitation Pay Entitlements), reflective of guidance associated with USAR personnel. An Reserve Component Service member is entitled to medical and dental treatment for an injury, illness, or disease that was incurred or aggravated while in a qualified duty status and that is not the result of gross negligence or misconduct (referred to in this instruction as a "covered condition"). This document is further provided in its entirety for the board members review within the supporting documents.
- h. Memorandum – Subject: Line of Duty Determination, 1 July 2020, reflective of the National Guard Bureau being delegated as the final approving authority for LOD investigations. The applicant's left upper humerus fracture was determined to have occurred within the line of duty.
- i. DA Form 2173 (Statement of Medical Examination and Duty Status), 25 April 2020, reflective of the approval of the applicants LOD for his left upper humerus fracture.
- j. Memorandum – Subject: Request to Expedite ABCMR in the Restoration of Medical Benefits, Pay and Allowances, 26 February 2024, reflective of the NCARNG, Adjutant General's (TAG) submitted request for an expedited review of the Soldiers that

mobilized from the NCARNG in support of Operation Enduring Freedom (Spartan Shield) in effort to restore medical benefits, pay and allowances. The NCARNG TAG notes that several Soldiers experienced a break in service which resulted in a lapse in medical care and suspension of their pay and allowances. Given the extended period and the associated hardship, he is further requesting that this matter be expedited.

k. Military Pay System Information, reflective of the applicant's pay and entitlements received from 16 August 2019 – 6 June 2021. During this period the applicant experiences a 34 day break in service (23 December 2020 – 25 January 2021).

l. Army National Guard Current Annual Statement, 19 May 2023, reflective of the applicant's qualifying service completed between 19 May 2001 – 19 May 2023 (total of 21 years of qualifying service/3711 retirement points).

m. DD Form 214, 6 June 2021, reflective of the applicant's service on active duty from 26 January 2021 – 6 June 2021.

5. On 6 February 2025, the NGB, Chief, Special Actions provided an advisory opinion recommending approval of the applicant's request noting that he should have been retained on medical orders until he was returned to duty or completed the Integrated Disability Evaluation System process. The applicant sustained an In Line of Duty (LOD) injury while deployed and was placed on 12301(h) orders due to the LOD on 24 September 2020 once he returned from deployment. The applicant had a break in orders from 23 December 2020 to 25 January 2021 before being placed on RCMC orders until he was returned to duty on 6 June 2021.

6. On 7 February 2025, the applicant was provided with a copy of the advisory opinion and for review/comment.

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 applicant's contentions, the military record, and regulatory guidance were carefully considered. The Board reviewed and concurred with the National Guard Bureau's advising official finding the Soldier sustained an in line of duty injury while deployed and was placed on 12301(h) orders due to the LOD on 24 September 2020 once returning from mobilization. The applicant had a break in order from 23 December 2020 to 25 January 2021 before being placed on orders under returned to duty on 6 June 2021. The Board concluded the applicant should have remained on medical orders until he was return to duty eligible or completed the Integrated Disability Evaluation System process. The

applicant should have been on continuous Title 10, USC, section 12301(h) orders from 23 December 2020 to 6 June 2021.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

:XX	:XX	:XX	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 and Army National Guard records of the individual concerned be corrected by:

- amending Orders Number MM-0266-00006A01, Headquarters U.S. Army Medical Command, dated 24 November 2020, to show 24 September 2020 through 6 June 2021
- entitlement to back pay and allowances as a result of this correction
- correction of his NGB Form 23A with applicable time
- voiding his DD Form 214, for the period ending 6 June 2021
- amendment of his DD Form 214, for the period ending 22 December 2020 to show in:
 - item 12b: 6 June 2021
 - item 12c: 1 year, 9 months, and 22 days

X //SIGNED//

CHAIRPERSON

Signed by:

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. Title 10 U.S.C. Section 12301(H) provides that when authorized by the Secretary of Defense, the Secretary of a military department may, with the consent of the member, order a member of a reserve component to active duty –

- to receive authorized medical care
- to be medically evaluated for disability or other purposes; or
- to complete required Department of Defense health care study, which may include an associated medical evaluation of the member.

A member ordered to active duty under this subsection may, with the member's consent, be retained on active duty, if the Secretary concerned considers it appropriate, for medical treatment for a condition associated with the study or evaluation, if that treatment of the member is otherwise authorized by law.

A member of the Army National Guard of the United States or the Air National Guard of the United States may be ordered to active duty under this subsection only with the consent of the Governor or other appropriate authority of the State concerned.

3. Army Regulation 600-77 (Administrative Management of Wounded, Ill or Injured Soldiers), Chapter 5 (Orders) provides that Medical Retention Processing – Evaluation (MRP-E) orders are short-term 10 USC 12301(h) orders that will extend a demobilizing Soldier on active duty to complete medical evaluation processing when there is not enough time remaining on the initial mobilization order. Paragraph 3-2 (Continuation on Active Duty for Medical Care (Medical Retention Processing/Medical Retention Processing – Evaluation), provides that Reserve Component Soldiers on active-duty orders for more than 30 days who incur or aggravate a wound, illness, or injury with a definitive treatment plan requiring one of the following are eligible to request voluntarily retention on active duty:

- require definitive care; or
- a permanent profile that refers the Soldier into the DES.

//NOTHING FOLLOWS//