ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [redacted]

BOARD DATE: 8 May 2025

DOCKET NUMBER: AR20240010732

APPLICANT REQUESTS: to receive per diem while on Temporary Change of Station (TCS) Order HO-155-0051 dated 3 June 2016.

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

- DD Form 149 (Application for Correction of Military Record)
- Self-written statement, wherein, the applicant states, in March 2016, she was placed on TCS orders during a mobilization with the 3rd Battalion, 289th Regiment; she did not receive per diem, but believes she was entitled to these benefits
- G-1 Travel and Transportation Branch Compensation and Entitlements Division statement, wherein, the G-1 official states, after review of the documentation that was submitted to our office, the applicant met the criteria for the additional per diem
- Orders Number A-07-406824 dated 21 July 2014, which shows the applicant was ordered to Active Duty for Operational Support (ADOS) for 730 days with a report date to Fort Hood, TX, on 28 July 2014; the purpose on the order was shown as Contingency Operation for ADOS in support of Operation Enduring Freedom (OEF)-Continental United States Support Base (CSB)
- Commander Warrior Transition Unit Memorandum - Subject: Request for Early Release from Active Duty (REFRAD) for [Applicant], dated 18 February 2015, requesting the applicant's early release from active duty on 23 March 2016, due to her transferring to another Troop Program Unit that was mobilizing
- Permanent Orders Number 1A-15-349-001 dated 15 December 2015, which shows, the 289th, 3rd Battalion Training Support and its members were ordered to active duty in support of OEF-CSB for an initial period of 365 days, effective 11 May 2016
- DA Form 31 (Request and Authority for Leave) dated 10 March 2016, which shows the applicant was on travel leave from 20 to 23 March 2016
- Warrior Transition Unit (WTU) clearing document dated 16 March 2016, which indicates she cleared the Fort Hood WTU
- Orders Number 077-0124 dated 17 March 2016, which shows the applicant was released from active duty, effective 23 March 2016

- DA Form 137-1 (Unit Clearance Record) dated 17 March 2016, which shows she cleared her unit (Fort Hood WTU) on 17 March 2016
- Fort Hood Reserve Component (RC) Demobilization Clearance Record dated 17 March 2016, showing her RC Demobilization Clearance Record
- Individual Travel Assessment Worksheet dated 18 March 2016, which shows she would be traveling from Fort Hood, TX to Round Rock, TX on 21 March 2016
- Orders Number A-07-406824A01 dated 21 March 2016, which amended Orders Number A-07-406824, by changing the end date to 23 March 2016 vice 26 July 2016
- DD Form 214 (Certificate of Release or Discharge from Active Duty) ending on 23 March 2016, showing the applicant entered active duty on 28 July 2014 and was REFRAD on 23 March 2016
- Orders Number 16-127-00001 dated 6 May 2016, which ordered the applicant to active duty as a member of her RC unit in support of OEF (other than homeland) for 365 days, with a report date on 11 May 2016
- Orders Number HO-155-0051 dated 3 June 2016, which deployed the applicant in a TCS status in support of OEF-CSB, not to exceed 365 days, with a proceed date to Fort Hood, TX, on 11 May 2016; in relevant part the order states:

    - This is a TCS, Soldiers will be attached to TCS duty stations
    - Normal PCS entitlements, allowances, and relocation of family members are not authorized; Consolidated Personnel Policy Guidance for Operations Iraqi Freedom and Enduring Freedom is found on the Deputy Chief of Staff, G-1 website
    - Essential Unit Messing (EUM) has been declared by the Assistant Secretary of the Army (ASA) Manpower and Reserve Affairs (M&RA) for the mobilization and demobilization sites
    - Per diem payable is $5.00 IE [incidental expenses] per day for continental United States (CONUS) and $3.50 IE per day for outside CONUS (OCONUS) for this period of active duty
    - Basic Allowance for Subsistence (BAS) payroll deduction will be made Defense Finance and Accounting Service-Indianapolis while the Soldier is on EUM status
    - Within 48 hours of arrival at duty location, the Soldier must check with supporting installation housing office before securing temporary lodging at the duty location and obtain a DA Form 1351-5 authorizing the appropriate entitlements for lodging and "M&IE
    - With a SNA [statement of nonavailability], the Soldier is authorized per diem in accordance with the Joint Travel Regulations (JTR)

- Orders Number HO-155-0051 (A1) dated 30 August 2016, which added an accounting code

- Orders Number HO-155-0051 (A2) dated 19 September 2016, which changed the accounting classification to Fiscal Year 2107 Line of Accounting in Defense Travel System (DTS), contact Installation Management Command; and changed the Customer Identification Code to "N/A"
- DD Form 214 ending on 10 May 2017, which shows the applicant entered active duty in support of OEF on 11 May 2016 and was honorably released from active duty on 10 May 2017
- Order Number 003300 dated 31 January 2019, showing the applicant was ordered to annual training for a period of 3 days with a report to Fort Shafter, HI, on 6 February 2019
- Orders Number 22-084-00001 dated 25 March 2022, which assigned the applicant to the Retired Reserve, effective 18 April 2022
- Orders Number C06-295094 dated 30 June 2022, which placed the applicant on the Army of the United States Retired List, effective 18 April 2022

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:

- Regarding her pay issue, per a preliminary review by the Compensation and Entitlement Division, she has met the requirements for additional per diem
- In following up, she was instructed to submit this DD Form 149 along with supporting documentation for the Board's assistance in adjudicating her claim
- She was deployed stateside in support of Operation Enduring Freedom on TCS status for 365 days beginning in 2016
- The duty assignment was completed as instructed per orders provided, however, no additional per diem was paid
- Supporting documents have been attached for further review

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

- Having prior Regular Army enlisted service, the applicant enlisted in the U.S. Army Reserve (USAR) on 8 January 2009
- On 21 July 2014, Orders Number A-07-406824 ordered the applicant to CO-ADOS in support of OEF-CSB for 730 days with a report date to Fort Hood, TX, on 28 July 2014
- On 21 March 2016, Orders Number A-07-406824A01 amended Orders Number A-07-406824, by changing the end date to 23 March 2016 vice 26 July 2016

- On 23 March 2016, the applicant was released from active duty; DD Form 214 shows she completed 1 year, 7 months, and 26 days net active service this period
- On 6 May 2016, Orders Number 16-127-00001 ordered the applicant to active duty as a member of her RC unit in support of OEF (other than homeland) for 365 days, with a report date on 11 May 2016
- On 3 June 2016, Orders Number HO-155-0051 deployed the applicant in a TCS status in support of OEF-CSB, not to exceed 365 days, with a proceed date to Fort Hood, TX, on 11 May 2016; in relevant part, the order states:

    - This is a TCS, Soldiers will be attached to TCS duty stations
    - Normal PCS entitlements, allowances, and relocation of family members are not authorized; Consolidated PPG for Operations Iraqi Freedom and Enduring Freedom is found on the Deputy Chief of Staff, G-1 website
    - EUM has been declared by the ASA M&RA for the mobilization and demobilization sites
    - Per diem payable is $5.00 IE per day for CONUS and $3.50 IE per day for OCONUS for this period of active duty
    - BAS payroll deduction will be made Defense Finance and Accounting Service-Indianapolis while the Solider is on EUM status
    - Within 48 hours of arrival at duty location, the Soldier must check with supporting installation housing office before securing temporary lodging at the duty location and obtain a 1351-5 authorizing the appropriate entitlements for lodging and "M&IE"
    - With a SNA, the Soldier is authorized per diem in accordance with the JTR

- Orders Number HO-155-0051 (A1) dated 30 August 2016 added an accounting code
- Orders Number HO-155-0051 (A2) dated 19 September 2016 changed the accounting classification to Fiscal Year 2107 Line of Accounting in DTS, contact Installation Management Command; and changed the Customer Identification Code to "N/A"
- On 12 January 2017, she reenlisted in the USAR for an indefinite period
- On 10 May 2017, the applicant was honorably REFRAD; DD Form 214 shows she completed 1 year net active service this period
- On 30 June 2022, Orders Number C06-295094 placed the applicant on the Army of the United States Retired List, effective 18 April 2022

4. On 18 April 2025, the Office of the Deputy Chief of Staff (DCS) G-1, Compensation and Entitlements Division provided an advisory opinion for this case and stated:

a. On 8 July 2022, the Army DCS, G-1 sent a message through the S-1 Net under the same subject announcing Army's review of Reserve Soldiers per diem entitlements while on active duty between 2014 and 2017 that may be eligible to file a claim for per diem payments, provided the servicemember was mobilized/ordered to active duty on TCS (Temporary Duty (TDY) contingency) orders following completion of a PCS tour (ADOS-Active Component/ADOS-Reserve Component) and remained at the same duty location after a break in service of at least one day and return to place entering active duty (PLEAD)/primary residence prior to start of TDY tour.

b. On 28 July 2014, the applicant received ADOS Order Number A-07-406824 dated 21 July 2014 assigning her on duty at Fort Hood, TX for 730 days. This tour ended 23 March 2016. The applicant traveled back to her PLEAD of Round Rock, TX on 23 March 2016. This is verified by the travel voucher where she was reimbursed $151.59 for her travel on "DOV" 824869 dated 10 August 2016. On 11 May 2016, the applicant received a mobilization Order Number 16-127-0001 dated 6 May 2016 assigning her at Fort Hood, TX for 365 days in support of Operation Enduring Freedom.

c. Our office [G-1] recommends approval for the per diem during this timeframe since the applicant met the criteria listed in paragraph 2 above.

5. On 23 April 2025, the applicant was provided with a copy of the G-1 advisory opinion to allow for comments or rebuttal. She did not respond.

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 concurred with the advisory official from the Office of the Deputy Chief of Staff (DCS) G-1, which was based upon a message from S-1, stating U.S. Army Reserve Soldiers may be eligible to file a claim for per diem, provided they met the requirements from the years 2014 to 2017. The Board determined the applicant met the criteria for per diem from 21 July 2014 to 23 March 2016, pursuant to her orders. Therefore, the Board granted relief.

BOARD VOTE:

Mbr 1	Mbr 2	Mbr 3	
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:

- showing the applicant was authorized per diem for the period 21 July 2014 to 23 March 2016 in accordance with applicable regulations
- DFAS paying her entitlement to per diem utilizing the Military Pay Account and not the ABCMR funds payable through Debts and Claims

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 10, U.S. Code (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 31, USC, section 3702, also known as the barring act, prohibits the payment of a claim against the Government unless the claim has been received by the Comptroller General within 6 years after the claim accrues. Among the important public policy considerations behind statutes of limitations, including the 6-year limitation for filing claims contained in this section of Title 31, USC, is relieving the government of the need to retain, access, and review old records for the purpose of settling stale claims, which are often difficult to prove or disprove.

3. Joint Travel Regulations (JTR) provide policy and laws establishing travel and transportation allowances of Uniformed Service members and Department of Defense (DoD) civilian travelers. It also implements station and certain other allowances. The JTR has the force and effect of law for travelers and implements statutory regulations and law for DoD civilian travelers. Per diem allowance is also known as a subsistence allowance and is a daily payment instead of actual expense reimbursement for lodging, meals, and incidental expenses. A per diem allowance is separate from transportation expenses and other reimbursable expenses. The per diem allowance is a daily rate meant to cover living expenses. It provides the maximum amount a traveler may be reimbursed for lodging, meals, and incidental expenses.

a. Section 0329 (Operational Deployments and Contingency Operations) provides that the Secretary concerned, or Commander may direct the use of no-cost Government contracted or owned quarters when a Service member or civilian employee is assigned to a contingency operation or operational deployment or performing duty under similar conditions. These no-cost Government quarters may be at or near the U.S. installation and are specifically for Service members and civilian employees assigned to a contingency operation or operational deployment or performing duty under similar conditions. The Secretary concerned or Area of Responsibility (AOR) Combatant Commander (CCDR) may direct the use of no cost Government contracted quarters off the U.S. installation but may not direct the use of Government meal rate.

- a Service member or civilian employee who is temporarily assigned to a Combatant Command (CCMD) or Joint Task Force (JTF) for operational deployment or contingency operations, or performing duty under similar conditions within the same AOR, may be eligible for travel allowances

- The CCDR or JTF Commander determines the allowances, as specified in Chapter 2, including designating Essential Unit Messing
- The CCDR or JTF Commander may delegate, in writing, the authority to prescribe a different rate for lodging, meals, incidental expenses, or the entire per diem rate to a subordinate commander who directs the travel in individual travel cases
- The CCDR and JTF Commander's decision about what is payable must be stated in the travel authorization; the determination of the CCDR and JTF Commander supersedes what the AO puts in the TDY order

b. Incidental Expense Amounts for a traveler sent temporary duty to a location within the U.S. is $5.00 per day.

c. Section 010206 (Travel Authorizations and Orders) provides that travel and transportation allowances are payable only after valid orders are issued. The order directs travel to, from, or between official points and serves as the basis for the trip and associated reimbursements. A travel authorization or order should be issued before travel begins. Travel or expenses incurred before a travel authorization or order is issued are not reimbursable, unless otherwise stated in the JTR. In unusual or urgent situations when travel must begin before a written authorization or order can be issued, a verbal authorization may be given. In such cases, the verbal authorization must be followed up in writing (called a "confirmatory order") before allowances are paid. A travel order may only contain authority for travel and transportation allowances provided within the JTR. A travel order may only contain authority for travel and transportation allowances provided within the JTR. If there is any conflict between a travel order and the JTR, the JTR prevails.

d. Travel authorizations and orders cannot be retroactively modified to increase or decrease an allowance after the travel is completed. A travel authorization or order may be retroactively corrected to show the original intent. When an allowance is approved after travel begins, it does not constitute a retroactive modification to create, change, or deny an allowance. An amendment is effective on the date it is issued and is not retroactive unless it contains language that corrects an error or omission or provides a confirmation of the date of the verbal authorization.

4. Department of the Army Personnel Policy Guidance for Overseas Contingency Operations, 1 July 2009 (Periodic Review), last updated 9 August 2013, applies to active Army, the Army National Guard, U.S. Army Reserve, retired Soldiers, Department of the Army civilians, Department of Defense civilians, contractors, Red Cross employees, and Army Air Force Exchange Services employees.

a. Paragraph 8–5a (Per Diem) states, on 15 August 2007, the per diem policy was adjusted for the long conflict in which we are now engaged. The Army will PCS Soldiers to enduring positions or assign them to these positions in a TCS/TDY status at a reduced per diem rate as opposed to continuing them in an extended TCS/TDY status in a full per diem status. For any TCS/TDY assignment lasting longer than 180 days, a waiver from the ASA (M&RA) is required to draw full per diem. For additional information, see All Army Activities (ALARACT) 384-2011 which supersedes ALARACT 053/2008.

(1) Logistics Support: The duty station Installation is responsible to house, mess, transport, and provide administrative support to personnel mobilized/deployed in support of contingency operations.

(2) Amount of per diem: While in a TCS status, Soldiers authorized per diem will receive the incidental portion of per diem at the rate of $5.00 per day in CONUS or $3.50 per day OCONUS. The payment of per diem is based on the Soldier's TCS location, not the actual lodging location. Per diem will not accrue while a Soldier is in a leave status (e.g., ordinary, emergency or convalescent) or during proceed time in accordance with JFTR, paragraph U4102B. Effective 5 January 2004, any Soldier on leave from the TCS location may be reimbursed lodging.

b. Reserve Component (RC) Travel Pay:

(1) RC Soldiers mobilized in support of contingency operations are entitled to travel pay from their principal residence to the mobilization station for processing to active duty status and ultimate deployment. They will be entitled to travel pay at the end of the period of active duty, from the demobilization station to return to their principal residence.

(2) While in a TDY status, RC Soldiers will be reimbursed for lodging, meals, and incidental expenses, at the daily rate prescribed for the operation area. Reimbursement will be reduced when government quarters and mess are available. Accrual travel voucher DD Form 1351-2 needs to be filed every 30 days (see Chapter 8, DOD FMR 7000.14-R, Volume 9). Soldiers who are paying for commercial lodging may be reimbursed per diem if on leave, as approved by the NDAA FY04 and effective 5 January 2004.

(3) Soldiers ordered to active duty at a CONUS location outside the local commuting area of their principal residence are entitled to travel pay from the principal residence to the duty station and then back to the principal residence upon completion of the active duty tour. These Soldiers are also authorized per diem during the entire period of active duty. Per diem will be reduced when government quarters and mess are available.

(4) RC Soldiers ordered to duty at a location within the local commuting area of their principal residence are entitled to travel pay to their duty station on the first day, and from the duty station to their residence upon release from active duty on the last day. They are not authorized per diem or mileage during the remainder of the active duty tour.

//NOTHING FOLLOWS//