

**DEPARTMENT OF HOMELAND SECURITY
BOARD FOR CORRECTION OF MILITARY RECORDS**

Application for the Correction of
the Coast Guard Record of:

**FINAL DECISION
BCMR Docket No. 2013-148**

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SUMMARY OF THE RECORD

The applicant asked the Board to correct his record to show that he transferred his unused Post-9/11 GI Bill¹ benefits to his dependent children before retiring from active duty. He alleged that he was “not made aware that I had to transfer my Post-9/11 GI Bill educational benefits to my dependents while on active duty.” The applicant retired from active duty on October 31, 2009, after serving more than 21 years on active duty, and there is nothing in his record to show that he was provided counseling regarding the transferability of his Post-9/11 GI Bill benefits.

The Judge Advocate General recommended granting relief, stating that the Coast Guard failed to provide the applicant with individual, pre-separation counseling regarding his Post-9/11 GI Bill benefits. He noted that in BCMR Docket No. 2012-054 the Board held that the absence of such counseling may be sufficient to justify granting relief.

FINDINGS AND CONCLUSIONS

The applicant alleged that he was not informed about the requirement that he transfer his unused Post-9/11 GI Bill benefits to his dependents while on active duty, and he retired on October 31, 2009, without having made the transfer. The JAG agreed that it failed to counsel the applicant as required and noted that the Board has granted relief in similar cases where a member did not receive individual counseling about Post-9/11 GI Bill benefits. The Coast Guard should have provided the applicant with Post-9/11 GI Bill counseling and documented it in accordance with Paragraph 3.g. of Attachment 1 to DTM 09-003², which requires documentation of individual, pre-separation counseling about the program. Therefore, the Board finds that the applicant has proved by a preponderance of the evidence that he was not properly counseled about his eligibility to transfer his unused education benefits under the Post-9/11 GI Bill. If the Coast Guard had provided proper counseling, the applicant presumably would have learned that he had to transfer his unused education benefits to his eligible dependents before retiring on October 31, 2009. Accordingly, the Board finds that the applicant has proven by a preponderance of the evidence that his record contains an error and he is entitled to relief.

¹ 38 U.S.C. § 3319 (2010) (authorizing members on active duty with at least 6 years of active service to transfer part of their educational benefits to their dependents if they agree to obligate 4 more years of service or the number of years of service prescribed by the Secretary of Defense in regulation).

² U.S. Department of Defense, DTM 09-003, Post-9/11 GI Bill (June 22, 2009), Attach. 1, para. 3.g. (requiring the Service to “provide active duty participants . . . with qualifying active duty service individual pre-separation or release from active duty counseling on the benefits under the Post-9/11 GI Bill and document accordingly.”).

ORDER

The application of [REDACTED] USCG (retired), for correction of his military record is granted. His record shall be corrected to show that before retiring from active duty on October 31, 2009, he transferred his Post-9/11 GI Bill educational benefits to his eligible dependents. The Coast Guard shall assist him with the paperwork necessary to accomplish this transfer of benefits.

February 27, 2014

