

**DEPARTMENT OF TRANSPORTATION
BOARD FOR CORRECTION OF MILITARY RECORDS**

Application for Correction
of Coast Guard Record of:

BCMR Docket
No. 1999-179

FINAL DECISION

Chairman:

This is a proceeding under the provisions of section 1552 of title 10 and section 425 of title 14 of the United States Code. It was docketed on September 13, 1999, upon the BCMR's receipt of the applicant's complete application.

The final decision, dated July 13, 2000, is signed by the three duly appointed members who were designated to serve as the Board in this case,

RELIEF REQUESTED

The applicant asked the Board to pay him retroactively the nontaxable difference between a Commander's dependent housing allowance for [REDACTED] and that for [REDACTED] between July 28, 1997 and June 8, 1998.

The applicant alleged that he was eligible for the VHA/BAH [variable housing allowance/basic allowance for housing] for the [REDACTED] area between July 28, 1997 and June 8, 1998, but he was not counseled as to that fact. Accordingly, his orders were prepared in such a way that he received the VHA/BAH rate for [REDACTED] which was lower than that for [REDACTED].

He quoted from a letter from G-WP (chief of military personnel), dated August 9, 1999 that stated that "If the BCMR aps the change in your orders from authorizing a PCS move to a no-cost PCS (Permanent change of station) order, you would receive the difference between VHA/BAH at the [REDACTED] rate and the [REDACTED] rate." The applicant sent two requests for reimbursement to G-WP.

In their response, G-WP said, inter alia, that "because of practices in effect at the time, [the applicant] was not adequately counseled."

SUMMARY OF RECORD

On March 7, 1997, the applicant received transfer orders from his unit in [REDACTED] to [REDACTED]. Instead of issuing "no-cost" transfer orders,

indicating no change of residence, the Coast Guard issued standard transfer orders, which assume a change of residence. Therefore, although he did not need to move, he received VHA/BAQ at the lower [REDACTED] rate rather than at the [REDACTED] rate, from July 28, 1997, to June 8, 1998. If he had received "no-cost" transfer orders, he would have continued to receive VHA/BAQ at the higher [REDACTED] rate.

IEWS OF THE COAST GUARD

On March 28, 2000, the Chief Counsel of the Coast Guard recommended that the Board grant relief to the applicant.

According to GWP, it was error for the Coast Guard not to have provided the applicant with the option of receiving no-cost orders in connection with his July 1997 transfer. The Chief Counsel recommended that the Board grant the applicant relief by reforming his PCS orders to comport with G-WP's recommended [REDACTED] rates.

APPLICANT'S RESPONSE TO COAST GUARD VIEWS

The Board sent a copy of the advisory opinion of the Coast Guard to the applicant together with an invitation to comment thereon within 15 days. The applicant responded that he had no objection to the Coast Guard recommendation to grant the relief he requested.

FINDINGS AND CONCLUSIONS

The Board makes the following findings of fact and conclusions of law on the basis of the submissions of the applicant and the Coast Guard, the military record of the applicant, and applicable law:

1. The Board has jurisdiction of this matter under section 1552 of title 10, United States Code.
2. According to the Commandant (G-WPM), it was error for the Coast Guard office of military personnel to transfer the applicant from [REDACTED] to a [REDACTED], in accordance with transfer orders he received on March 7, 1997.
3. The applicant requested that his record be corrected to reflect a no-cost PCS move, rather than the standard PCS move he executed in July 1997.
4. It was error on the part of the Coast Guard not to have provided the applicant with the option of receiving no-cost PCS orders in connection with his July 1997 transfer.
5. Basic allowance for housing may be authorized at the rate applicable for a member's dependents' location rather than the member's duty station in circumstances similar to applicant's.

6. Therefore, the Board should grant the applicant relief by reforming his PCS Orders dated March 7, 1997 to comport with G-WP's recommendation.

7. The relief requested by the applicant should be granted.

[ORDER AND SIGNATURES ON FOLLOWING PAGE]

ORDER

The military record of [REDACTED] USCG is amended to retroactively correct his record to show that he was eligible to receive a basic allowance for housing at the rate for [REDACTED]. The Coast Guard shall change his PCS orders dated March 7, 1997 from standard to "no-cost". The Coast Guard shall pay the applicant the appropriate sum due as a result of this correction.

