



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE ROAD, SUITE 1001
ARLINGTON, VA 22204-2490

■
Docket No. 2884-24
Ref: Signature Date

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD ICO [REDACTED], USNR,
[REDACTED]

Ref: (a) Title 10 U.S.C. § 1552
(b) Directive-Type Memorandum 23-001, 4 Jan 23
(c) NAVADMIN 008/23, 19 Jan 23

Encl: (1) DD Form 149 w/attachments
(2) Advisory opinion by OCNO N130C3/24U0461, 22 May 2024
(3) Subject's naval record

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed enclosure (1) with the Board for Correction of Naval Records (Board), requesting that her naval record be corrected to show that Petitioner was on Convalescent and Maternity Leave during the period of 9 July 2023 to 7 October 2023, recalculate final pay to include 3 months of Basic Allowance for Housing (BAH) and Basic Allowance for Subsistence (BAS), dependent pay, and compensation for the remainder of leave days on her account.

2. The Board, consisting of [REDACTED], [REDACTED], and [REDACTED] reviewed Petitioner's allegations of error and injustice on 16 October 2024 and pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, relevant portions of Petitioner's naval record, and applicable statutes, regulations, and policies.

3. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice finds as follows:

a. On 8 August 2018, Petitioner entered active duty with an End of Active Obligated Service (EAOS) of 7 August 2022 and Soft EAOS of 7 August 2023.

b. On 13 December 2022, Petitioner executed an agreement to extend enlistment for 2 months with a Soft EAOS of 7 October 2023.

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c. On 6 June 2023, Petitioner was issued official separation orders (BUPERS order: 1573) while stationed in [REDACTED], [REDACTED], [REDACTED] with an effective date of departure of October 2023. Place elected for travel: [REDACTED], [REDACTED] with an actual date of separation of 7 October 2023.

d. On 7 July 2023, Petitioner's dependent child was born.

e. On 12 July 2023, Petitioner submitted a Leave Request/Authorization (NAVCOMPT Form 3065) requesting convalescent leave for the period of 9 July 2023 to 20 August 2023.

f. On 16 August 2023, Petitioner submitted a Leave Request/Authorization (NAVCOMPT Form 3065) requesting ordinary leave for the period of 20 August 2023 to 7 October 2023. Block 24 (Comments/Remarks) listed the following: "Respectfully request Maternity Leave. Created through Auto Check Out Process. Created through Auto Check in Process."

g. On 3 October 2023, Petitioner's signed Dependency Application/Record of Emergency Data (NAVPERS 1070/602) listed her child residing at [REDACTED], [REDACTED].

h. Petitioner was released from active duty and transferred to the Navy Reserve with an honorable character of service and was issued a DD Form 214, Certificate of Release or Discharge from Active Duty for the period of 8 August 2018 to 7 October 2023 upon completion of required active service. Furthermore, block 16 (Days Accrued Leave Paid lists 22.0.

i. On 31 October 2023, Petitioner's Master Military Pay Account (MMPA) shows that she was authorized BAH at the with-dependents rate for [REDACTED], [REDACTED] from 7 July 2023 to 7 October 2023.

j. Petitioner's MMPA shows that the following period of 9 July 2023 to 19 August 2023 (42 days) was ran as Convalescent (non-chargeable). Furthermore, the period of 20 August 2023 to 7 October 2023 (49 days) was ran as terminal leave. Finally, Petitioner sold 21.5 days effective 7 October 2023.

k. On 15 February 2024, the Defense Finance and Accounting Service (DFAS) notified Petitioner that "[d]ebt is due to leave you took from 08/20/2023 to 10/07/2023 resulting in a negative leave balance of -30 day(s) which includes a non-accrual of -2.5 day(s). you are not entitled to pay and allowances during periods of negative leave." Total balance due was \$2,461.52.

CONCLUSION

Upon review and consideration of all the evidence of record, the Board finds the existence of an injustice warranting the following corrective action. On 7 July 2023, Petitioner gave birth to her child. On 12 July 2023, Petitioner submitted NAVCOMPT Form 3065 requesting "convalescent childbirth" leave for the period of 9 July 2023 to 20 August 2023. MMPA shows this leave was charged as convalescent leave which is non-chargeable. On 16 August 2023, Petitioner submitted a NAVCOMPT Form 3065 requesting ordinary leave for the period of 20 August 2023

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to 7 October 2023. Petitioner was released from active duty on 7 October 2023. On 31 October 2023, MMPA shows the period of 20 August 2023 to 7 October 2023 (49 days) was charged as terminal leave. In February 2024, Petitioner was notified by the DFAS that she was in debt due to the leave taken from 20 August 2023 to 7 October 2023. The Board concluded that references (b)¹ and (c) authorizes Petitioner to take 12 weeks of parental leave following the period of convalescence from childbirth. Although the leave request was not submitted in accordance with reference (c)² and NAVCOMPT Form 3065 Block 10 stated the leave type requested was Ordinary, Block 24 listed the request was for Maternity Leave. Therefore, the Board determined that Petitioner is entitled to have the leave period of 20 August 2023 to 6 October 2023 be charged as Parental Leave and that Petitioner is entitled to payment for any remaining accrued leave upon her separation, up to the career maximum of 60 days. Finally, Petitioner did not update NAVPERS 1070/602 until 3 October 2023. Petitioner was entitled to BAH at the with dependent rate effective 7 July 2023 and her MMPA shows that BAH at the with dependent rate was started on 31 October 2023, effective 7 July 2023.

¹ Directive-Type Memorandum 23-001, unit commanders must balance the needs of the unit with the needs of the member to maximize opportunity to use parental leave. Members who give birth will be authorized 12 weeks of parental leave following a period of convalescence to care for the child. Members who are the non-birth parent will be authorized 12 weeks of parental leave following the birth of their child to care for the child. Members who adopt a minor child or who have a minor child placed for adoption or long-term foster care with them will be authorized 12 weeks of parental leave to care for the child. Members will be afforded the opportunity to take full advantage of the MPLP consistent with their desires, operational requirements, and training workloads of their unit. The MPLP must be administered in accordance with applicable laws and the policies and procedures in this DTM.

The parental leave described in this DTM applies to a member when any one of these events occurs on or after December 27, 2022: a. Effective Date. The birth of a member's child, adoption of a minor child by the member, or placement of a minor child with the member for adoption or long-term foster care.

(1) For the birth parent, 12 weeks of parental leave will be authorized following a period of convalescence from childbirth. (a) Convalescent leave may be authorized for the recovery of the birth parent from giving birth if such leave is specifically recommended, in writing, by the health care provider of the birth parent to address a diagnosed medical condition and is approved by the unit commander. The period of convalescent leave immediately following childbirth will be taken in one increment. Such leave will begin on the first full day after the birth of the child or the date of release of the member from the hospital or similar facility where the birth took place, whichever is later. (b) Twelve weeks of parental leave will be authorized during the 1-year period beginning on the date of birth of the child. Parental leave will be taken following any period of convalescent leave described in Paragraph 2.b.(1)(a) and in accordance with Paragraph 3 of this attachment.

Members may take ordinary (i.e., chargeable) leave in between increments of parental leave or consecutively with parental leave. No particular order or sequence of such leave is required.

² Announced the expansion of the Military Parental Leave Program in line with Title 10 U.S.C. Section 701 through Under Secretary of Defense for Personnel and Readiness Directive-Type Memorandum 23-001, Expansion of The Military Parental Leave Program and Assistant Secretary of the Navy (Manpower and Reserve Affairs) Directive-Type Memorandum, Department of the Navy Guidance for Expansion of the Military Parental Leave Program.

Effective 27 December 2022, reference (b) implements 12 weeks of non-chargeable leave for all Active Component members, Reserve Component (RC) members who perform full-time active duties for longer than 12 consecutive months, and RC members performing duty under a call or order to active service for more than 12 consecutive months. In the event of a live birth, 12 weeks of non-chargeable leave is authorized for the birth parent and non-birth parent. For the birth parent, the 12 weeks is in addition to convalescent leave authorized by a medical provider and approved by a member's commanding officer. The 12 weeks of non-chargeable leave is also authorized for qualifying adoptions and long-term foster situations and may be taken in one increment or multiple increments. If taken in multiple increments, each increment must be for at least 7 days. Unless extended in line with reference (b), parental leave expires 1 year after the qualifying event.

The appropriate category of parental leave must be requested through e-Leave in NSIPS. Requests for parental leave that exceed 42 days must be submitted as separate Primary Caregiver Leave (PCL) periods.

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RECOMMENDATION

That Petitioner's naval record be corrected, where appropriate, to show that:

Petitioner's Command, Petitioner submitted for PCL leave, via e-Leave in Navy Standard Integrated Personnel System (NSIPS), for the period of 20 August 2023 to 30 September 2023 (42-days) in a timely manner. This was non-chargeable.

Petitioner's Command, Petitioner submitted for PCL leave, via e-Leave in NSIPS, for the period of 1 October 2023 to 7 October 2023 (7-days) in a timely manner. This was non-chargeable.

Petitioner was authorized BAH at the with-dependents rate for [REDACTED], [REDACTED] from 7 July 2023 to 7 October 2023.

Note: That any other entries affected by the Board's recommendation be corrected. Furthermore, the DFAS will complete an audit of Petitioner's pay records to determine amounts due, if any.

A copy of this report of proceedings will be filed in Petitioner's naval record.

4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above titled matter.

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(e)), and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of the reference, has been approved by the Board on behalf of the Secretary of the Navy.

10/29/2024

