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d. In accordance with reference (b), Effective date of BAH and Rental Charge. BAH and rental charge begin on the date of the Service member's assignment to such Government quarters or on the day the determination of inadequacy is effective, whichever is later.

e. On 29 November 2021, Petitioner departed from [REDACTED], Unaccompanied Housing (UH). Petitioner's original arrival was 22 February 2021.

f. On 15 December 2021, [REDACTED] notified To Whom It May Concern that "[Petitioner] has a catastrophic medical diagnosis dating back to November 2021 that has resulted in chronic malabsorption and recurrent syncopal episodes. Since October 2021, [REDACTED] has been under the care of multiple physician specialists at the [REDACTED] requiring frequent medical follow up visits in the [REDACTED]. As a result of his medical condition, he requires 24 hour, 7 days a week assistance with activities of daily living from a care giver. Additionally, his recurrent syncopal episodes result in frequent, emergent visits to the emergency room and/or hospitalization. BU3 is unable to operate a motor vehicle due to his medical condition.

Given the above details, the complexities of BU3's diagnosis, and his follow-on care requirements, I have determined that government provided quarters onboard [REDACTED] [REDACTED] are not adequate to meet his demanding medical needs. Additionally, per reference (a), [Petitioner's] physician has recommended he work from home, in which I fully concur with that recommendation until further notice.

It is my professional medical opinion that it is in the best interest of [Petitioner's] health and the US Navy that he immediately begin to reside with his parents at [REDACTED] [REDACTED] where he will have continuous at-home care and the transportation resources to support his medical needs."

g. On 12 April 2022, Petitioner departed from [REDACTED]. Petitioner's original arrival was 30 March 2022.

h. On 12 April 2022, [REDACTED] notified Petitioner that "[t]his email is to confirm that I spoke with [Petitioner] today. [Petitioner] has a medical condition which is requiring multiple medical appointments with specialty providers at least monthly. A physical evaluation board (PEB) is currently being processed to determine FIT or UNFIT for continued naval service. It is recommended that he be allowed to go home today and begin his transition plans to be TAD to [REDACTED] as this is the location that allow for him to best meet his scheduled medical appointments. [Petitioner] will have several medical/mental health/nutrition/physical therapy appointments averaging 5-7 appointments monthly for the next several months."

i. On 22 July 2022, Basic Allowance for Housing at the Without Dependents Rate (VERS 3-2017) was signed by [REDACTED] Housing Director recommending approval with the following comments "[p]er medical note and SVM circumstance. SVM was assigned a service animal and requires care by parents. Parents are not authorized to stay in [UH]. APPROVED to draw

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BAH.” [REDACTED] Command Mater Chief approved, agreeing with Housing Director on 2 August 2022.

j. On 1 August 2022, President, Physical Evaluation Board notified Chief of Naval Personnel that “[p]er reference (a) and (b), the President of the Physical Evaluation Board, acting for the Secretary of the Navy, has considered the physical condition of the following members of the Naval service as referred by a Medical Evaluation Board to determine each individual's fitness for continued Naval service.

FINDING. In each instance the member is found UNFIT to perform the duties of their office, grade, rank, MOS, or rating due to a disability. A disability percentage assigned in accordance with the Veterans Affairs Schedule for Rating Disabilities is listed next to the member's name.

DISPOSITION. You are requested to effect the PERMANENT RETIREMENT of these Service members from the Naval service under the provisions or Title 10 U.S.C. § 1201 or 1204.”

k. On 4 November 2022, Petitioner’s Master Military Pay Account (MMPA) shows that Petitioner was authorized BAH at the without dependents rate for [REDACTED] [REDACTED] for the period of 2 August 2022 to 27 November 2022.

l. On 18 November 2022, [REDACTED] notified To Whom It May Concern that “[Petitioner] has a catastrophic medical diagnosis dating back to November 2021 that has resulted in chronic malabsorption and recurrent syncopal episodes. He has been under the care of multiple physician specialists at the [REDACTED] [REDACTED] requiring frequent medical follow up visits in the [REDACTED] area from November 2021 to November 2022.

Given the above details and per reference (c) [Letter dated 15 December 2021 from [REDACTED] [REDACTED] authorizing residence in [REDACTED]], [Petitioner] has not resided in government housing at his duty station of [REDACTED] since November 2021.

In accordance with reference (a) [Letter dated 10 December 2021 from [REDACTED] MD]and (b) [DoD 7000.14R FMR, chapter 26] it is my recommendation that [Petitioner] be entitled to the appropriate back pay of Basic Allowance for Housing (BAH) from 15 December 2021 until his medical retirement date of 27 November 2022.”

m. Petitioner retired with an Honorable character of service and was issued a Certificate of Release or Discharge from Active Duty (DD Form 214) for the period of 5 December 2017 to 27 November 2022 due to Disability, Permanent.

n. On 29 November 2022, [REDACTED] notified [REDACTED] that “I am not sure how any of the references you provided changes anything I have provided. Since the Sailor is no longer active, they will need to submit a request to BCNR.”

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o. On 12 February 2024, Commander, [REDACTED] notified BCNR via [REDACTED] (First Endorsement [REDACTED] letter of 31 January 2024) that “Forwarded, recommending approval.

This is to certify that I have thoroughly reviewed [Petitioner’s] request and all supportive documents for back-pay of Basic Allowance for Housing (BAH) entitlements from 15 December 2021 to 3 August 2022. I have come to the conclusion that due to the service member's medical circumstances; he did in fact meet the eligibility criteria to receive BAH during the aforementioned period. It is my opinion that due to an administrative oversight, and to no fault of his own, [Petitioner’s] BAH eligibility was not considered and therefore never pursued during the early months of his at-home care. Approval of back-pay will help provide him and his family some relief from the financial hardships endured as a result of this oversight.”

p. On 5 March 2024, Commanding Officer, [REDACTED] notified BCNR (Second Endorsement [REDACTED] letter of 31 January 2024) that “Forwarded, recommending approval.”

q. On 12 August 2024, UH Director, [REDACTED] notified BCNR that “[w]hen SVM asked to move due to medical condition, we at [UH] obliged and moved him to first floor unit. When the condition worsened and SVM member needed extra accommodations, [UH] staff moved [Petitioner] to a unit that was ABA compliant. [UH] Management was able to accommodate but when medical condition had escalated to a point SVM needed round the clock care, we were no longer able to accommodate as [UH] is unaccompanied single sailor housing only. SVM was asked to request for BAH to better accommodate any medical conditions he needed to manage.

Original request was Nov 2021 to request BAH for his condition. So due to his requirement for 24/7 in-home care dating back to Nov 2021, [UH] was therefore deemed inadequate and that we supported and recommended he be provided back-pay of BAH entitlements at the "E4 Without Dependent" rate for the period of 15 Dec 2021 - 3 Aug 2022. SVM's official check out date was Nov 29, 2021. Check out sheet is attached.”

r. In the advisory opinion, attached as enclosure (2), the office having cognizance over the subject matter addressed in Petitioner’s application has commented to the effect that the request has merit and warrants favorable action if the Member provides official documentation that government quarters were deemed inadequate due to his medical diagnosis via signed documentation from a valid authority i.e., the UH program director or the commanding officer. Such documentation would have to annotate the effective date of when government quarters were deemed inadequate for the Member to receive a housing allowance.

CONCLUSION

Upon review and consideration of all the evidence of record, the Board finds the existence of an injustice warranting the following corrective action. The Board concluded that based on the memo from UH Director, [REDACTED], Petitioner’s requirement for 24/7 in-

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home care dates back to November 2021. Petitioner first requested BAH in November 2021 and on 29 November 2021, he departed government housing after his medical condition worsened to the point that his needs could no longer be accommodated by UH. The Board determined that this satisfied the requirements outlined in enclosure (2) as justification for Petitioner to receive a housing allowance from 29 November 2021 to 1 August 2022.

RECOMMENDATION

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

Petitioner was authorized BAH at the without dependents rate for [REDACTED] from 29 November 2021 through 1 August 2022. Note: Deduct BAH for the period of 30 March 2022 to 11 April 2022 while Petitioner was residing in UH.

Note: The Defense Finance and Accounting Service 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.

10/22/2024

