

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: BC-2012-01086

COUNSEL: NONE

HEARING DESIRED: NO

APPLICANT REQUESTS THAT:

She receive service credit for the period she received Incapacitation (INCAP) Pay, 27 May 2011 through 15 October 2011 when.

APPLICANT CONTENDS THAT:

1. Her active duty orders ended on 8 May 2011 and her medical continuation (MEDCON) orders should have been effective 9 May 2011, but medical personnel reviewed her case and determined INCAP pay was the appropriate funding source because she was not eligible for MEDCON orders based on her medical condition.
2. She received new guidance via an email message from the National Guard Bureau (NGB) regarding MEDCON orders , which stated, "if you have anyone who was denied/declined MEDCON orders, who is receiving INCAP pay, they may be eligible for a return to active duty under the new policy. USAF does not have the authority to backdate but those who qualify for MEDCON orders can file a BCMR and request service credit."
3. It was only after she received an appointment at Wilford Hall Medical Center to begin her Medical Evaluation Board (MEB) process that she was approved for MEDCON orders.

In support of her request, the applicant submits copies of her Point Credit Summary, supporting email messages and documents, and the SAF/MR, memorandum; subject: Medical Continuation for Air Reserve Component (ARC) Members Memorandum, dated 9 December 2011.

The applicant's complete submission, with attachments, is at Exhibit A.

STATEMENT OF FACTS:

According to documents extracted from the Air Force Automated Records Management System (ARMS), the applicant is a former enlisted member of the Regular Air Force (RegAF) and the Air National Guard (ANG) components. She served in the RegAF from 4 February 2003, through 1 August 2007, and enlisted in the New Hampshire ANG on 2 August 2007. She was progressively promoted to the grade of Staff Sergeant, having assumed that grade effective and with date of rank of 23 January 2009. The applicant was separated from the ANG on 26 June 2012, and placed on the Temporary Disability Retired List (TDRL) effective 27 June 2012 with a compensable percentage for physical disability of 100 percent. Her service records were transferred to HQ Air Reserve Personnel Center, Denver, Colorado.

The applicant was on Military Personnel Appropriation (MPA) orders from 1 October 2009, through 8 May 2011. In March 2009, the applicant was diagnosed with a heart related medical issue. Her condition was found to be in the line of duty and a Medical Evaluation Board (MEB) was initiated. Her orders ended in May 2011, but she was not eligible for medical continuation orders based on her medical condition as defined in the, then current, AF Process Guidance and Responsibility for Medical Continuation of Air Reserve Component (ARC) Members. The applicant applied and was approved for incapacitation pay.

AIR FORCE EVALUATION:

AFMOA/SGHI recommends denial. SGHI states the applicant was denied MEDCON orders on 11 May 2011. She would have been eligible for MEDCON orders had the date she was referred into the Disability Evaluation System (DES) been defined. In accordance with (IAW) the SAF/MR policy memorandum dated 9 December 2011, Procedures, Section C., "ARC members on medical continuation orders who are referred into the DES will remain on medical continuation orders until the DES process is completed." Current policy does not specify when the referral into the DES process began. The applicant's medical condition was defined as not being severe enough to justify MEDCON orders since she was on medication management and did not have any ongoing treatments based on documentation from her doctor. Incapacitation pay appeared to be the appropriate remedy of pay and allowance for the applicant's condition and present treatment until she was scheduled for her MEB appointments beginning on 16 October 2011, at which time MEDCON orders were approved.

The complete AFMOA/SGHI evaluation is at Exhibit C.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

A copy of the Air Force evaluation (Exhibit D) was forwarded to the applicant on 1 May 2012, for review and comment within 30 days. To date, this office has not received a response.

THE BOARD CONCLUDES THAT:

1. The applicant has exhausted all remedies provided by existing law or regulations.
 2. The application was timely filed.
 3. Sufficient relevant evidence has been presented to demonstrate the existence of error or injustice. After considering the totality of the evidence before us, and noting the recommendation from AFMOA/SGHI to deny relief, we are persuaded that relief is warranted in this case. In this regard, we note that in accordance with DoDI 1241.2, Reserve members on orders for more than 30 days who incur a condition in the line of duty that renders them unfit for military duty will be retained on active duty orders until they are either found fit for duty or separated through the disability evaluation system (DES). In view of this and since the applicant was on such orders at the time of her March 2009 diagnoses of a heart related medical condition, which was determined to be ILOD, she should have been retained on active duty until the final disposition of her DES processing occurred. Therefore, we recommend the applicant's record be corrected as indicated below.
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THE BOARD RECOMMENDS THAT:

The pertinent military records of the Department of the Air Force relating to APPLICANT be corrected to show that she was not released from active duty on 8 May 2011, but was continued on active duty until 15 October 2011.

The following members of the Board considered this application BC-2012-01086 in Executive Session on 2 October 2012, under the provisions of AFI 36-2603:

Panel Chair
Member
Member

The following documentary evidence was considered:

- Exhibit A. DD Form 149, dated 7 March 2012, w/atchs.
- Exhibit B. Applicant's Military Personnel Records.
- Exhibit C. Letter, AFMOA/SGHI, dated 24 April 2012.
- Exhibit D. Letter, SAF/MRBR, dated 1 May 2012

Panel Chair