

date of the election, and agrees to serve a specified additional period in the Armed Forces from the date of election may transfer unused benefits to their dependents. The Department of Defense issued a regulation that authorized the military departments to offer members the option to transfer the benefit. The Secretary of the Air Force determined that the Air Force would offer the transfer of benefits feature. The transfer must be initiated while the member is serving in the Armed Forces, which is defined as limited to those on active duty or in the Selected Reserves.

Service Secretary's were required, as of 22 June 2009, to provide and document counseling regarding these benefits. The Air Force issued AFGMI on 23 July 2009, which required pre-separation counseling be documented. However, the Air Force did not seek out members who were already on terminal leave, or had already completed separation counseling.

The program was not in effect at the time of the member's retirement. He provides no error or injustice on the part of the United States Air Force.

The complete DPSIT evaluation is at Exhibit B.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

He requests the Board's consideration based on his current medical condition. He was unaware that he could transfer this benefit to his dependent as he received no briefing.

Due to his disability, he is unable to concentrate or stay focused for long periods of time. He is taking nine medications and this causes him to be drowsy and tired. His daughter is pursuing her degree while working part-time. He has been her sole financial support in helping her pursue her education. Due to his medical condition, he is unable to work and does not foresee going back to work in the near future.

"Any member of the Uniformed Service...on or after 1 August 2009, who is eligible for the Post-9/11 GI Bill, and.....is or becomes retirement eligible during the period from 1 August 2009 through 1 August 2013. A service member is considered retirement eligible if he or she has completed 20 years of active duty or 20 qualifying years of Reserve Service."

Per the eligible service member's clause, he completed 26 years of service at the time that he retired. As a result, he is eligible for this benefit as he attained 20 plus years of service before 1 August 2009. He, in no way, would have predicted having the medical problems he currently faces. He asks the Board to waive the requirements of being retired on or

about 1 August 2009 to allow his daughter the opportunity to complete her education. She has no other means of support and he is unable to go back to work.

He asks the Board to allow his daughter to use the benefit for which he faithfully served this country to earn. The benefit would go unused otherwise. To deny this request would be unjust to a disabled veteran who served his country for 26 years.

The applicant's complete response, with attachments, is at Exhibit D.

THE BOARD CONCLUDES THAT:

1. The applicant has exhausted all remedies provided by existing law or regulations.
2. The application was timely filed.
3. Insufficient relevant evidence has been presented to demonstrate the existence of an error or injustice. We took notice of the applicant's complete submission in judging the merits of this case; however, we find insufficient evidence of an error or injustice to warrant corrective action. The facts and opinions stated in the advisory opinion appear to be based on the evidence of record and have not been adequately rebutted by the applicant; most notably, that the program was not in effect at the time of the applicant's retirement. Therefore, in the absence of evidence to the contrary, we find no basis to recommend granting the relief sought in this application.
4. The applicant's case is adequately documented and it has not been shown that a personal appearance with or without counsel will materially add to our understanding of the issues involved. Therefore, the request for a hearing is not favorably considered.

THE BOARD DETERMINES THAT:

The applicant be notified that the evidence presented did not demonstrate the existence of material error or injustice; that the application was denied without a personal appearance; and that the application will only be reconsidered upon the submission of newly discovered relevant evidence not considered with this application

The following members of the Board considered AFBCMR Docket Number BC-2012-02439 in Executive Session on 11 February 2013, under the provisions of AFI 36-2603:

, Panel Chair

, Member

, Member

The following documentary evidence was considered:

Exhibit A. DD Form 149, dtd 1 Jun 12, w/atchs.

Exhibit B. Letter, AFPC/DPSIT, dtd 19 Jun 12.

Exhibit C. Letter, SAF/MRBR, dtd 26 Jul 12,

Exhibit D. Letter, Applicant's Response, dtd 10 Aug 12, w/atchs.

Acting Panel Chair