

Congress of the United States
House of Representatives
Washington, DC 20515-0301

September 14, 2018

The Honorable Doug Ducey
Governor
State of Arizona
1700 West Washington Street
Phoenix, Arizona 85007

Major General Michael T. McGuire
The Adjutant General
Arizona Department of Emergency and Military Affairs
5636 E. McDowell Road
Phoenix, Arizona 85008

Dear Governor Ducey and Major General McGuire,

In recent weeks, my office has been contacted by numerous Arizona National Guard soldiers serving at the Western Army Aviation Training Site (WAATS) in my Congressional District regarding a wrongful clawback of their Basic Allowance for Housing (BAH) benefits. As a Member of the House Armed Services Committee who proudly represents these soldiers and their families, I am alarmed and concerned regarding not only the wrongful decision to recoup their earned benefits, but the lack of clear and consistent communication from leadership to servicemembers and their families on the issue that has resulted in tremendous confusion and alarm as many now face the sudden loss of thousands of dollars.

As you know, in 2017 it was requested that the BAH for servicemembers at WAATS be updated to reflect, rightfully, the zip code of the physical location of the base (85145) in Red Rock, Arizona in accordance with DOD policy. This change resulted in a higher BAH which more accurately reflects the area's costs. It was determined by the United States Property and Fiscal Office (USPFO) for Arizona, and later affirmed by the Arizona Army National Guard's Inspector General, that BAH is determined upon the mailing address of WAATS (85653). Let me be clear, this is a wrong decision and interpretation of applicable law and policy – BAH is determined by the geographic property location of the duty station and not by a mailing address. Pinal County's Assessor's Office has confirmed multiple times to inquiring stakeholders that indeed, Silverbell is within unincorporated Pinal County and its property zip code is 85145. In addition, the Defense Finance and Accounting Service (DFAS) has confirmed to my office that BAH is determined by property location, and that compensating servicemembers using BAH based on mailing zip code is a wrongful application of policy.

Further, soldiers who had been receiving the higher BAH since their DA-5960's were processed in 2017 were given 90-day notice in July that, per USPFO's determination and affirmed by the Arizona Department of Emergency and Military Affairs (DEMA), those benefits would be clawed back. However, I understand many soldiers are set to begin seeing their benefits recouped with less than 60 days notice beginning tomorrow, September 15th. To my knowledge, soldiers

have been given the option to apply for individual financial hardship waivers. I understand the processes that are required by the DOD when benefits are wrongfully sought or bestowed, but these BAH benefits are neither. They are the earned benefits of every active-duty soldier at WAATS.

As some face the potential clawback of thousands of dollars in the immediate future, I am urging you to:

1. Put an immediate stop to any recoupment of benefits set to take place beginning September 15th.
2. Correct the determination by the State that BAH is based on a mailing address to ensure every eligible soldier receives their fair and accurate BAH to which they are entitled moving forward.
3. Reimburse any recoupment that has taken place or takes place in the near future as a result of the incorrect initial determination.
4. Ensure soldiers whose DA-5960's were not processed at the time USPFO placed a pause to investigate whether the change was legitimate receive the difference in BAH benefits they should have received along with those whose forms had been processed.

While this issue is within the State's power to resolve immediately, I am prepared to introduce legislation if necessary should these wrongful clawbacks occur as planned. I am also working to ensure the National Guard Bureau (NGB) and the Army have done and are doing everything they can to correct this issue. Every entity involved in this erroneous decision at every level must be held accountable. These soldiers should be focused on their missions – not fighting bureaucracy for their own benefits they are entitled to. To that end, I stand ready to work with you on this critical matter.

Sincerely,

A handwritten signature in blue ink that reads "Tom O'Halleran". The signature is written in a cursive, flowing style.

Tom O'Halleran
Member of Congress