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OFFICE OF THE CHIEF OF NAVAL OPERATIONS
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OPNAV INSTRUCTION 7220.12

From: Chief of Naval Operations

Subj: BASIC ALLOWANCE FOR HOUSING (BAH) ENTITLEMENTS

Ref: (a) ASN (M&RA) Delegation of Authority ltr of 24 May 05
(b) 37 U.S.C. 403
(c) DODFMR, DOD 7000.14-R, Volume 7A
(d) JFTR, Volume 1
(e) OPNAVINST 4650.19

Encl: (1) BAH Entitlements for Members Receiving BAH due to a Requirement to make Child Support Payments
(2) BAH Entitlements for Single Shipboard Sailors (E-5 and Below)
(3) BAH Entitlements for Shipboard Dual Military Couples E-5 and Below with No Other Dependents
(4) Validation of BAH Entitlements at Dependents' Location, Other Than The Permanent Duty Station

1. Purpose. To establish clear policy guidance regarding authorized BAH entitlements. This instruction promulgates policy and procedures for authorizing the payment of BAH per references (a) through (e). The policy contained in this instruction is applicable only with respect to entitlements to BAH within the United States (domestic BAH) and does not constitute an interpretation of regulations and policies which pertain to entitlements to Overseas Housing Allowance (OHA), other overseas station allowances, or travel and transportation entitlements regarding a designated place, and deferred or delayed travel of dependents as regulated by reference (d). Enclosures (1) through (4) provide additional clarification of policy for specified circumstances. This instruction is a complete revision of previously promulgated BAH policy documents and should be read in its entirety. This instruction also incorporates and supercedes the BAH changes previously promulgated in NAVADMINS 059/04, 230/01, 184/01, 172/98, and 122/98.

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2. Background. Effective 1 January 1998, BAH replaced Basic Allowance for Quarters (BAQ) and Variable Housing Allowance (VHA). BAH is paid to assist service members in acquiring housing in the vicinity of the permanent duty station consistent with housing occupied by non-service members with comparable income levels in the same geographic location. BAH rates vary based the geographic location of the member's permanent duty station (PDS), on grade, and dependency status. Members may, however, request BAH based on dependents' location or the member's previous PDS when the member meets the specific criteria outlined in this instruction.

3. Definitions

a. Inequity. A situation in which a member makes a housing decision based on a BAH rate at a duty station to which the member was permanently transferred, and the member is later disadvantaged by receiving a lower BAH rate associated with the new duty station despite not being authorized relocation of residence at government expense (A subsequent reduction of BAH due to orders returning one to a previous duty station does not constitute and inequity).

b. Unfunded Permanent Change of Station (PCS) move. Orders that do not authorize relocation of household goods or family members. Also called a close proximity move.

c. Unusually Arduous Sea Duty (as pertaining to BAH entitlements only). Any member permanently assigned to a commissioned shipboard vessel or an afloat squadron designated "unusually arduous sea duty" per reference (e). Members assigned to sea duty for rotational purposes only (e.g., aviation squadrons, and construction battalions) are not considered assigned to unusually arduous sea duty for BAH entitlement purposes.

d. Overseas unaccompanied/dependent restricted tour. Any permanent duty assignment where the member's orders do not authorize the member's dependents to relocate with the member to the overseas duty station for the duration of the member's tour.

e. Residence. A member with dependents, who establishes more than one residence and shares a residence with one or more dependents, is not eligible for a housing allowance at the dependent location for the dependents who do not reside with the member.

f. In-transit housing allowances. For guidance, refer to chapter 26 of reference (c).

g. Commuting Distance. As a general rule, commuting distance is any distance not to exceed 50 miles or one hour commuting time (one way) from the member's residence to the permanent duty station.

h. Private Public Ventures. Family Housing units specifically designated as Navy Private Public Ventures (PPVs) are considered private sector quarters for the purposes of determining BAH entitlements.

4. Guidelines for Making Determinations

a. Unfunded PCS orders (close proximity move). Service members (with or without dependents) who are reassigned within the continental United States and who neither execute a move under PCS orders nor relocate their dependents, may be authorized payment of BAH based on the higher of the old permanent duty station rate or the new permanent duty station rate. To be eligible, members must continue to commute daily to the new permanent duty station from the same previously established residence. In cases where the member desires to execute a government funded move and the member's orders do not authorize a government funded move, the member's command must provide justification and request that the member's orders be modified to authorize a fully funded move.

(1) A member who executes back-to-back proximity moves that result in a return to a permanent duty station in the original military housing area is not authorized to maintain BAH at the previous duty station rate. In this case, the member may experience a reduction in BAH, since the member's housing decision was made based on the last PCS move that authorized reassignment to that geographic area. What occurs in this circumstance is merely a return to a previously authorized BAH in the same geographic area in which the member has continuously resided. Example: A Sailor assigned to permanent duty station Camp Pendleton is ordered (relocation not authorized) to permanent duty station San Diego. The Sailor is subsequently ordered back to permanent duty station Camp Pendleton. The Sailor's BAH entitlement while at each permanent duty station is as follows:

(a) Camp Pendleton - Camp Pendleton rate (BAH based on permanent duty station).

(b) San Diego - San Diego rate (BAH based on permanent duty station).

(c) Camp Pendleton - Camp Pendleton rate (BAH based on permanent duty station).

(2) In cases where a member executes a close proximity move and requests to maintain BAH at the previous duty station rate, and then receives a new set of orders to the current duty station location, the member is authorized to continue to maintain the previous duty station rate, so long as the member continues to maintain the current residence. Example: A Sailor assigned to permanent duty station San Diego is ordered (relocation not authorized) to permanent duty station Camp Pendleton. The Sailor is subsequently issued another set of orders to permanent duty station Camp Pendleton. The Sailor's BAH entitlement while at each permanent duty station is as follows:

(a) San Diego - San Diego rate (BAH based on the permanent duty station)

(b) Camp Pendleton - San Diego rate (BAH based on the previous permanent duty station)

(c) Camp Pendleton - San Diego rate (BAH based on the previous permanent duty station)

(3) In cases where a member executes a close proximity move and requests to maintain BAH at the previous duty station rate, and subsequently executes a move at own expense, not under PCS orders, the member loses authorization for BAH at the previous duty station rate. BAH at the previous duty station rate was intended to allow the member to maintain a previously established residence, not to establish a new residence. If BAH at the previous duty station is still warranted, the member must request new authorization from Commander, Navy Personnel Command (PERS-451H), providing justification for the move. (Saving the government the expense of a household goods move does not constitute justification for BAH at the previous permanent duty station.)

(4) All requests for BAH at the previous permanent duty station rate in conjunction with a close proximity move shall be

submitted to PERS-451H for approval. Each of the below criteria must be met prior to approval of the request:

(a) PCS orders to a permanent duty station in an adjacent military housing area within the United States.

(b) Both permanent duty stations are in an area ordinarily serviced by the same local transportation system, or where the member can reasonably be expected to commute daily from home to either permanent duty station.

(c) The member intends to commute daily between the previously established residence and the new permanent duty station.

(d) The member established the residence and received BAH while assigned to the previous permanent duty station.

b. Payment of BAH when member resides separately from dependents. Payment of BAH based on dependent location for a member who lives separately from dependents due to military necessity may only be authorized when the member is not able to commute daily between the duty station location and the dependents' residence. Assigned military duties, including deployment and transportation interruptions, do not constitute an inability to commute. The following duty assignments within the 50 states and District of Columbia are determined to be assignments to which military necessity makes it necessary for dependents to reside at a location other than the member's duty station:

(1) Overseas Unaccompanied/Dependent-Restricted Tour. When issued orders to an overseas unaccompanied/dependent-restricted tour, BAH is based on either:

(a) The dependents' current Continental United States (CONUS) residence that was established while the member was stationed at the previous permanent duty station (in this case, member must submit a request to PERS-451H); or

(b) The previous permanent duty station rate (provided the member was in receipt of BAH and commuting on a daily basis from his dependents' place of residence to his immediate previous duty station (in this case, member must submit a request to PERS-451H); or

(c) A location designated for move entitlements (designated place move) per reference (b) (in this case, member must submit a request to Chief of Naval Operations (CNO (N13))).

1. Administrative requirements. Requests for a designated location for move entitlements must be endorsed by the commanding officer, provide justification for moving dependents to a designated place, and include a copy of the member's page 2 and Permanent Change of Station (PCS) orders directing an overseas unaccompanied/dependent restricted tour.

2. When subsequent PCS orders return a member from OCONUS to a permanent duty station in a neighboring military housing area (MHA), BAH at the previous CONUS based rate is not authorized. Orders from OCONUS to CONUS are fully funded and authorize the relocation of household goods.

3. Guidance for members who receive accompanied overseas orders, but wish to delay or defer travel of dependent(s) can be found in Chapter 10 of reference (d).

(2) Assignment/orders to short-term PCS for 12 months or less for Professional Military Education (PME) or Training. BAH may be paid at new permanent duty station (PME/training location), old permanent duty station or dependents' permanent residence while the member was assigned at the old duty station, whichever is more equitable. Members must submit a waiver request to PERS-451H for approval. This policy is not applicable to PCS orders in which a member is sent from an accompanied OCONUS tour to CONUS. However, it is applicable to PCS orders when the member was on an unaccompanied tour (and in receipt of BAH).

(3) Critical Housing Areas (CHAs). CHA designation is afforded by Commander Navy Installations (CNI) to areas in which both military and private family housing is in short supply. When Permanent Change of Station orders to a new permanent duty station that is a designated CHA authorize a delay in relocation of dependents due to a critical housing shortage, the commanding officer may authorize BAH based on the location of the dependents' continuous residence established while the member was stationed at the old duty station, or based on the member's old duty station rate, whichever is more equitable. The entitlement to BAH based on other than the new permanent duty station continues until the dependents relocate to the new permanent duty station or until 60 days after the new permanent

duty station is no longer designated a CHA, whichever occurs first. Members within 12 months of planned rotation date at the time the permanent duty station loses CHA designation, may continue to receive BAH based on other than the permanent duty station until execution of Permanent Change of Station orders. Exception: Members reporting within 90 days of their new permanent duty station being designated a CHA and who elected not to relocate their dependents due to limited housing availability, may submit a waiver request to receive BAH under the provisions of this paragraph to PERS-451H.

(4) Assignment/orders to "unusually arduous sea duty" in CONUS, Hawaii, or Alaska. In general, provided that a member is eligible in all other respects, a member with dependents, who is assigned to unusually arduous sea duty, may elect to receive BAH based on the dependent's residence within the United States, rather than the member's permanent duty station/home port, if approved to do so by the member's commanding officer (or equivalent local approving official). Similarly, a member who acquires dependents after executing orders to unusually arduous sea duty, may elect to receive BAH based on the dependent's residence within the United States, rather than the permanent duty station, if approved to do so by the commanding officer (or equivalent local approving official). In approving a member's request to receive "BAH at dependent location," the commanding officer is certifying that he/she has verified the member's dependent location, and that the member meets all other eligibility requirements to receive BAH. Again, BAH at dependent location may not be paid if the member is able to commute daily between the permanent duty station and the dependents' residence. This paragraph applies only to those members assigned to unusually arduous sea duty in CONUS, Alaska, or Hawaii. For members assigned to ships homeported overseas, paragraph 5b(1) of this instruction applies.

(5) Assignment/orders to ships entering overhaul involving a homeport change when dependents are not relocated incident of homeport change.

(a) If the unit was designated "unusually arduous sea duty" before the effective date of the overhaul, BAH may be paid at the rate set for the dependent location, contingent upon commanding officer's approval.

(b) If the unit was not designated "unusually arduous sea duty" before the effective date of overhaul, BAH may only be paid at the rate set for dependent location if the

dependents reside at the pre-overhaul site (contingent upon commanding officer's approval). Following completion of the unit's overhaul, the member's BAH rate will be shifted to the rate for the new homeport when the dependents residing at the pre-overhaul location relocate to the new homeport or 60 days after the effective date of the homeport change, whichever occurs first.

(6) Assignment/orders to a unit with an issued change of homeport or duty station when dependents relocate to the announced homeport or duty station before the effective date of the change. Commanding officers may authorize BAH based on dependent location to members whose dependents relocate to the announced homeport or duty station before the effective day of the change.

(7) Additional information:

(a) Payment of BAH based on dependent location when members and dependents live separately within the United States may be appropriate in circumstances other than those in paragraph 5b. Such determinations will be made only in cases when the necessity to reside separately is caused by conditions at the duty station and paying BAH based on the servicemember's permanent duty station would be inequitable. Members may submit requests to PERS-451H for determination.

(b) For military married to a military member with dependents, lack of co-location at the other member's permanent duty station does not constitute a basis to draw BAH based on dependent location since either member may claim children from the marriage as dependents for BAH purposes.

(c) Circumstances specifically precluded from consideration in determination to pay BAH based on dependent location for members transferring between permanent duty stations (PDS) located in CONUS are:

1. Continuity in dependents' education.
2. Selling a dwelling.
3. Waiting list for government housing in a non-critical housing area.
4. Dependent employment.

5. Desire to retire to previous permanent duty station.

6. Financial burden of relocating dependents.

7. PCS funds conserved by not relocating dependents.

(d) Continued medical treatment of dependent(s) at the old permanent duty station except when the member's dependent is enrolled in the Exceptional Family Member Program. In this case, the commanding officer at the new permanent duty station must endorse medical certification from the supporting medical treatment facility that the required medical care for the exceptional family member is not available at the new permanent duty station.

(e) The effective date of determination shall be the date the member reports to the new PDS, the date dependents establish a residence, or the effective date of a homeport change for ships entering overhaul, as appropriate.

5. Applications. Unless otherwise stated in this instruction, individual servicemembers may request payment of BAH based on location other than permanent duty station by submitting a request via the service member's commanding officer to:

Commander, Navy Personnel Command (PERS-451H)
5720 Integrity Drive
Millington, TN 38055-4540

In all cases, the member must provide justification for the need to reside separately, the date the member was assigned to the duty station, the date the dependents' residence was established and, if applicable, information to show that the dependent residence is not within reasonable commuting distance. Commanding officers may forward requests for which the commuting distance has been verified.

6. Responsibility

a. CNO (N13) is responsible for Navy policy regarding BAH entitlements and for authorizing BAH based on dependent location when involving a designated place move of dependents.

b. PERS-415H may authorize BAH based on dependent location under paragraphs 5b(1)(a), 5b(1)(b), 5b(2), and 5b(7).

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c. Commanding officers may authorize payment of BAH based on dependents' location if the conditions of paragraphs 5b are met and one or more of the conditions of 5b(3) thru 5b(6) are met. Commanding officers may not redelegate this authority.

/s/

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Vice Admiral, U.S. Navy
Deputy Chief of Naval Operations
(Manpower, Personnel, Training,
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BAH ENTITLEMENTS FOR MEMBERS RECEIVING BAH DUE TO
A REQUIREMENT TO MAKE CHILD SUPPORT PAYMENTS

1. Purpose. This enclosure includes policy concerning Basic Allowance for Housing (BAH), Overseas Housing Allowance (OHA), and BAH-Differential (BAH-DIFF).
2. Background. The BAH transitional authority, established in 1997, authorized the payment of BAH-DIFF, and "BAH without" or "Overseas Housing Allowance (OHA) without," to members authorized to receive these allowances. Effective 1 January 2006, the payment of BAH-DIFF will be limited solely to members who pay child support who are assigned to single-type government owned, or leased, dwellings and members receiving partial BAH while occupying unaccompanied private public venture (PPV) quarters.
3. Policy. Effective 1 January 2006, the following housing allowance policy applies concerning the authorization and payment of BAH, OHA, and BAH-DIFF to single members and married military active duty service couples. This housing allowance change has no impact on a single member's COLA entitlement at the without dependent rate.
 - a. Single members who pay child support and who do not reside in government quarters within the United States are authorized BAH with dependents based on payment of child support. (These members were authorized to receive BAH single and BAH-DIFF prior to 1 January 2006).
 - b. Single members who pay child support and are residing overseas are entitled to OHA with dependents based on payment of child support. Their OHA shall be calculated using the full with-dependents ceiling compared to their rent (instead of the 90 percent ceiling) and they shall receive the full utility allowance instead of the 75 percent level (These members were authorized to receive OHA single and BAH-diff prior to January 1, 2006).
 - c. Single members who pay child support and who are assigned to government quarters are authorized to receive BAH-Diff only.

(1) The payment of BAH-DIFF does not affect the member's entitlement to partial BAH when assigned to single-type quarters (Barracks or shipboard). Partial BAH, however, is not payable

to members assigned to single-type government quarters leased or converted family-type quarters.

d. Single members who receive BAH, BAH-DIFF, or OHA with dependents based solely on child support, and who acquire dependents through marriage, adoption, or other legal means, become entitled to BAH or OHA with dependents under the normal BAH rules.

e. Military married to Military.

(1) In cases of dual military couples, where each is authorized to receive a housing allowance, without a dependent child in their custody, who are co-located and/or occupy the same private sector quarters, in which one or both members are paying child support, only one member of the couple is entitled to BAH or OHA at the with dependent rate based on payment of child support. The other member is only entitled to BAH without or OHA without dependents.

(2) In cases of dual military couples without a dependent child in their custody, who are co-located and assigned to government owned or leased family quarters, excluding private public ventures (PPVs), and one or both members have a child support payment, neither member is entitled to BAH or OHA.

(3) In cases of dual military couples without a dependent child in their custody, who are separated by military orders, and are assigned to single-type government quarters, each member with a child support payment is entitled to partial BAH and BAH-DIFF.

(4) In cases of dual military service couples without a dependent child in their custody, where one or both members have a child support payment, and the couple is separated by military orders and is authorized to occupy separate private sector quarters, then each member with a child support payment will be entitled to BAH or OHA at the with dependent rate based on payment of child support.

(5) In cases of dual military service couples without a dependent child in their custody, where one or both members have a child support payment, the couple is separated by military orders and one member is authorized to reside in private sector

quarters, and one member resides in government quarters, the member residing in private sector quarters is entitled to BAH or OHA at the with dependent rate based of payment of child support. The other member is entitled to partial BAH (depending on the type of government quarters assigned) and BAH-DIFF.

f. BAH at the Previous Permanent Duty Station (Close Proximity Move).

(1) Except as otherwise stated in this instruction, a member issued no cost/low cost PCS orders (orders involving a close proximity move) who is authorized to receive BAH at the with dependent rate based on payment of child support on the date the orders are issued, may request in writing to PERS-451H to continue to receive BAH at the with dependent rate based on the payment of child support for their previous duty station location.

(2) Approval is contingent upon the member maintaining the residence occupied prior to the execution of the PCS orders. Members who relocate to a residence in a different military housing area revert to the BAH rate for their current permanent duty station.

(3) If a member's requirement to pay child support terminates, the member will revert to BAH single at the rate for the previous duty station location as long as the eligibility conditions for BAH at the previous permanent duty station continue to be met.

(4) Members who receive BAH with dependents, OHA with dependents, or BAH-DIFF due to an obligation to pay child support are not eligible to elect BAH at a location other than the permanent duty station, based on PCS orders to a permanent duty station located in a critical housing area, orders to an unusually arduous sea duty billet, unaccompanied overseas tour, or short term professional education or training assignments for periods of 12 months or less.

BAH ENTITLEMENTS FOR SINGLE SHIPBOARD MEMBERS (E-5 AND BELOW)

1. Purpose. This enclosure includes policy concerning BAH entitlements for single shipboard members in the paygrades of E-5 and below.

2. Background. Except as otherwise prescribed in law, local base housing authority dictates the eligibility requirements for E-6 and below members requesting to live in off-base private sector housing. The law also allows the Secretary of the Navy to develop additional regulations governing the housing entitlements of E-4 and E-5 shipboard sailors. Single shipboard E-3 and below sailors, including those who are claiming dependents solely for the purpose of paying child support, are prohibited by law from receiving BAH/OHA.

3. Policy. Navy policy restricts eligibility to berth ashore for single shipboard Sailors E-5 and E-4 (with greater than four years of service), contingent upon the approval of their commanding officer. This approval, however, does not constitute an authorization to receive a housing allowance, but simply allows the member to reside off the ship.

a. The shore-based facility commander shall make the determination whether the member will be berthed in single bachelor quarters or entitled to draw an off-base housing allowance. It should be noted that full utilization of BQ spaces should be ensured prior to authorization of BAH for shipboard E-4s over four years of service without dependents. However, senior personnel residing in the BQ will not be involuntarily displaced to provide berthing for single shipboard E-4 Sailors.

b. Single shipboard E-4 Sailors who were previously assigned to shore duty in the same geographic location will continue to receive BAH/OHA if continuing to permanently reside in non-government quarters. Upon completion of the sea duty assignment, the member will continue to receive BAH if reassigned to the same shore location. E-4 and E-5 Sailors will have their authorization to receive BAH reevaluated when executing PCS orders out of the geographical area.

BAH ENTITLEMENTS FOR SHIPBOARD DUAL MILITARY COUPLES
E-5 AND BELOW WITH NO OTHER DEPENDENTS

1. Purpose. This enclosure includes policy concerning BAH entitlements for dual shipboard military couples in the paygrades of E-5 and below, with no other dependents.

2. Policy. Sailors who are married to another Sailor, both of whom are E-5 and below and on sea duty are entitled to an off-base housing allowance at the without dependent rate. To receive this benefit sailors must meet the following criteria:

a. Have no other dependents. This includes members who claim dependents solely for the purpose of child support payments.

b. Do not reside in government quarters.

c. Are permanently assigned to a ship or afloat squadron. Members assigned to a ship for deployment rotational purposes only (e.g. shore-based aviation squadrons, LCAC, ACU units, and embarked Marine detachments) do not qualify for the purposes of this entitlement.

d. For the purpose of this entitlement, each member of a dual military couple, having no other dependents, is considered a single member for BAH/OHA entitlement purposes. Therefore when one member of a dual military couple transfers from sea duty to shore duty, the Navy policy for E-4s with less than four years of service and E-5, single sailors comes into effect.

(1) Exception: E-5 and E-4 sailors who are receiving housing allowances under the above provisions may continue to receive a housing allowance when their military spouse transfers from sea duty to shore duty in the same geographic area as the military spouse on sea duty. In this case, provided the Sailors remain eligible in all other respects, the housing allowance continues until one or both of the Sailors executes new PCS orders. At that time, the entitlement to a housing allowance will be reevaluated.

(2) E-4 members assigned to a permanent duty station in the same geographical area as their military

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spouses may fall under unique circumstances that warrant receiving a housing allowance. These members may submit a waiver request endorsed by their commanding officer to OPNAV (N13) for determination.

VALIDATION OF BAH ENTITLEMENTS AT DEPENDENTS' LOCATION
OTHER THAN THE PERMANENT DUTY STATION

1. Purpose. This enclosure includes policy concerning validation of BAH entitlements for members with dependents, who are authorized BAH at a location other than the member's permanent duty station.

2. Background. The authority to grant BAH based on dependent location resides in certain cases with the local commanding officer, or equivalent local approving official (e.g., members assigned to "unusually arduous sea duty").

3. Policy. When a commanding officer approves a member to receive BAH at a location of dependents, other than the PDS/homeport, that commanding officer is certifying that he/she has verified the member's eligibility/entitlement and the location of the dependent's residence. In the interest of minimizing opportunities for BAH fraud, the following options are provided to commanding officers to assist with the validation process.

a. Commanding officers may request documentation indicating the dependents' residence, such as lease, mortgage, utility bill, etc.

b. Commanding officers may request the member provide a copy of his/her Page 2. Members are required to maintain the currency of their Page 2 documents and should be made aware that by signing the Page 2, the member has made an official statement regarding the residence location of dependents. False official statements for the purposes of obtaining BAH entitlements are punishable under the Uniform Code of Military Justice.

c. Commanding officers may require the member to sign a Page 13, officially certifying the location where the dependents reside. Again, false official statements for the purposes of obtaining BAH entitlements are punishable under the Uniform Code of Military Justice.