



FROM COUNSEL

A Preventive Law Service of the Fort Riley Legal Assistance Office
Keeping You Informed on Personal Legal Affairs

Basic Housing Allowance (BAH); AR 637-1, Ch. 7



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1. PURPOSE: To provide general information for common BAH circumstances.

2. FACTS:

a. **What is BAH?** BAH is housing allowance based on the market price of rental housing in the civilian market. BAH distinguishes between “with dependents” and “without dependents,” not the number of dependents. Compensation is based on the market rate of the duty station and the grade of the active-duty Servicemember. DA Form 5960 is used to start, stop, or change BAH and/or variable housing allowance, but is not required when Soldiers in-process at a new duty station; PCS orders can be used.

b. **Who is a dependent?** A dependent is a Soldier’s legal spouse, minor child, or unmarried dependent over the age of 21 and under the age of 23 (if attending college) for whom the Soldier provides support. A Soldier’s parent(s) may also qualify as dependents if the Soldier provides more than half of the parent’s support. The parent’s income must be less than one-half of the parent’s living expenses.

c. **What is BAH Differential (BAH-DIFF)?** BAH-DIFF is the difference between the “with dependents” and “without dependents” nonlocality BAH rate in a given calendar year. Soldiers who do not have court-decreed primary legal and physical custody of their children generally receive BAH-DIFF when they live in single-type government housing and provide child support in an amount greater than or equal to the BAH-DIFF amount for that Soldier’s pay grade. A Soldier must be able to demonstrate that they contribute no less than the applicable BAH-DIFF rate to retain the allowance.

d. **I have children but am not married. What is my BAH allowance?** It depends on whether you have legal and physical/residential custody of your children, pay child support, and/or live in single-type government quarters.

(1) If you have at least joint legal and primary physical/residential custody of your children, then you are authorized BAH at the with-dependent rate. You must present your court order providing you with joint legal and primary physical custody to DFAS. You are not authorized for with-dependent BAH if you have family-type government quarters.

(2) If you do not live in government quarters, the other parent has custody, and you are paying adequate child support (at or above your BAH-DIFF rate), then you are authorized to receive a housing allowance. However, if you do not live in government quarters due to a certificate of non-availability (CNA), then you will most likely not receive BAH at the with-dependent rate. If you are living in assigned family-type government quarters, you will not

receive BAH. If you are living in assigned single-type quarters, and you are paying adequate child support (at or above your BAH-DIFF rate), then you will receive the BAH-DIFF rate.

(3) A member is not authorized BAH solely on the basis of the member's child support payments when the child is in another active-duty member's custody (including a former spouse), who is assigned to government-owned/leased family-type quarters (does not include privatized housing), or is in receipt of a with-dependent housing allowance. Two members cannot receive with-dependent BAH for the same child. The Servicemember with court-ordered primary physical/residential custody is entitled to the with-dependent BAH.

e. What is a Partial Housing Allowance (BAH-Partial) and when may I receive it?

There are several situations in which a Servicemember may receive BAH-Partial, including:

(1) A Servicemember in grade E-6 or below without a dependent who is offered adequate Government quarters, or is assigned Government quarters but elects not to occupy such quarters and resides in private quarters at their own expense.

(2) A Servicemember married to another Servicemember, with no additional dependents, and living in government quarters.

(3) A Servicemember without dependents, living in government quarters, who is confined to or is ordered to PCS to a guardhouse or other correctional facility (unless forfeiture of allowances was directed).

f. What if I am married to another Servicemember? The following circumstances dictate the availability of housing allowances:

(1) When married Servicemembers have a dependent, they must choose which Servicemember will receive BAH or a housing allowance at the with-dependent rate. If they cannot agree, the senior Servicemember receives the with dependent rate.

(2) When a Servicemember is married to another Servicemember and they jointly occupy family-type government quarters, neither is authorized BAH or a housing allowance, even if a dependent resides in the quarters.

(3) When living separately, a Servicemember is authorized a housing allowance if they contribute to a dependent's support at or above the applicable BAH-DIFF rate. This authorization still applies if the Servicemember is in single-type government quarters when the child is in the physical custody of another person.

3. Direct all questions regarding BAH to the Legal Assistance Office at (785) 239-3117. This factsheet is a general reference for Servicemembers under Army Regulation 637-1, and does not provide legal advice for your specific case.

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