



DEPARTMENT OF THE AIR FORCE
WASHINGTON, D. C.

JUN 30 1998

Office of the Assistant Secretary

AFBCMR 97-03346

MEMORANDUM OF CONSIDERATION OF APPLICATION BEFORE THE AFBCMR

SUBJECT: [REDACTED]

Having carefully reviewed this application, we agree with the recommendation of the Air Force and adopt the rationale expressed as the basis for our decision that the applicant has been the victim of either an error or an injustice. Therefore, under the authority delegated in AFI 36-2603, the applicant's records will be corrected as set forth in the accompanying Memorandum for the Chief of Staff signed by the Executive Director of the Board or his designee.

Charlene Bradley
Panel Chair

Attachment:
Ltr, AFPC/DPPRT, dtd 12 Mar 98



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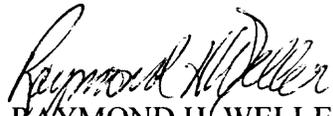
Office of the Assistant Secretary

AFBCMR 97-03346

MEMORANDUM FOR THE CHIEF OF STAFF

Under the authority of Section **1552**, Title **10**, United States Code, Air Force Instruction **36-2603**, and having assured compliance with the provisions of the above regulation, the decision of the Air Force Board for Correction of Military Records is announced, and it is directed that:

The pertinent military records of the Department of the Air Force relating to [REDACTED] corrected to show that on 1 March **1986**, he elected to change his Survivor Benefit Plan election from former spouse coverage, insurable interest, to former spouse coverage, maximum annuity, under the provisions of PL **99-145** effective 1 March **1986**, and the former spouse [REDACTED] concurred in the change.


RAYMOND H. WELLER
Chief Examiner
Air Force Board for Correction
of Military Records



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS AIR FORCE PERSONNEL CENTER
RANDOLPH AIR FORCE BASE TEXAS

12 MAR 1995

MEMORANDUM FOR AFBCMR

FROM: HQ AFPC/DPPRT
550 C Street West Ste 11
Randolph AFB TX 78150-4713

SUBJECT: Application for Correction of **Military Records**

Reference: [REDACTED]

Requested Correction: The **applicant** is requesting corrective **action** that would **allow him to convert** existing Survivor Benefit Plan (SBP) coverage from former spouse, **insurable interest option, to former spouse** coverage under the **same** provisions as spouse coverage. The applicant has included a notarized statement **signed by his former spouse**, concurring in his request.

Basis for Request: The applicant claims he has been paying at a higher rate and his former spouse **will** receive less than **she** should.

Background:

a. **Public Law (PL) 98-94, effective 24 Sep 83**, authorized a one-year open enrollment period which allowed retirees with spouse or **spouse and child** coverage to convert to former spouse coverage under the terms **and** conditions of **the** insurable interest option. Coverage under this option had to **be based on full retired pay**.

b. PL 99-145, effective **1 Mar 86**, authorized an open **season** during which participants with former spouse coverage under the insurable interest option could convert to former spouse coverage **under** the same cost and conditions as **spouse** coverage; **however**, the former **spouse had** to concur in the **change**.

c. **A former spouse** annuity payable under the insurable interest option is 55 percent of the base **amount** remaining after the **deduction** of the monthly SBP cost and **the annuity is** not reduced at age 62. In contrast, a former spouse **annuity payable under PL 99-145 is 55 percent of the base amount until age 62 and no less than 35 percent** of the **base amount** thereafter. **Due to a technical error in the language of the law, there is no age-82 reduction in the spouse-type annuity of a surviving former spouse whose divorce occurred prior to 29 Nov 09.**

Facts:

a. The member elected reduced **spouse** only coverage during the initial SBP enrollment period (effective 21 Sep **72**). The parties divorced **on 25 Mar 83** and, **although** unenforceable, the divorce decree ordered SBP coverage be continued for the former **spouse**.

The member elected former spouse coverage under the insurable interest option effective 29 Mar 84.

b. During the open season authorized by PL 99-145, eligible retirees were notified by the Air Force Accounting and Finance Center (AFAFC) by direct mail. Records show an information packet (copy included) and request for election change form were mailed to the applicant at the address maintained by the finance center. There is no record the applicant responded. The former spouse remarried 19 Feb 96, after her 55th birthday.

Discussion: While it is each retiree's responsibility to ensure the finance center is notified of any changes in their correspondence address, we have been unable to determine if the member's address was up-to-date when the information packets were mailed. However, it is reasonable to conclude he would have requested conversion as authorized by PL 99-145 had he been aware of the opportunity to do so since it would have reduced his monthly premium by more than \$200 per month. Furthermore, it is possible that the former spouse would have concurred since her potential monthly annuity would have increased approximately \$200.

Recommendation: There is no evidence of Air Force error; however, in the interest of justice, we recommend the member's record be corrected to show he changed from former spouse coverage, insurable interest, to former spouse coverage, maximum annuity, under the provisions of PL 99-145 effective 1 Mar 86, and the former spouse, [REDACTED] concurred in the change. Refund of SBP premiums are subject to the six-year statute of limitations.



PAT PEEK, DAFC
Chief, Retiree Services Branch
Directorate of Pers Program Mgmt