



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE ROAD, SUITE 1001
ARLINGTON, VA 22204-2490

█
Docket No. 6388-21
Ref: Signature Date

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD ICO █, USN RET,
XXX-XX-█

Ref: (a) Title 10 U.S.C. § 1552
(b) DODFMR, Vol 7B, Chp 44

Encl: (1) DD Form 149 w/attachments
(2) Subject's naval record

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed enclosure (1) with the Board for Correction of Naval Records (Board), requesting that his naval record be corrected to establish Survivor Benefit Plan (SBP) Spouse and Children coverage.

2. The Board, consisting of █, █, and █ reviewed Petitioner's allegations of error and injustice on 19 January 2022 and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, relevant portions of Petitioner's naval record, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, found that, before applying to this Board, he exhausted all administrative remedies available under existing law and regulations within the Department of the Navy. The Board made the following findings:

a. Reference (b), outlines the criterion that establishes a child as an eligible SBP beneficiary. The criteria includes the child is unmarried and under age 18; at least 18 but under 22 and pursuing a full-time course of study in a recognized educational institution; or incapable of self-support because of physical or mental incapacity, which existed before the eighteenth birthday or was incurred before age 22 while pursuing a full-time course of study.

b. Petitioner married █ on 20 November 1993.

c. Petitioner had four children: █ /born █, █ /born █, █ /born █, and █ /born █.

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d. On 2 July 2008, Naval Branch Health Clinic, [REDACTED] conducted a school physical on Petitioner's second child, [REDACTED], and he was shown to have incapacitating disabilities.

e. On 5 June 2018, Petitioner and spouse established a Special Needs Trust (SNT) for their second child, [REDACTED].

f. On 8 March 2019, Petitioner signed DD Form 2656, Data for Payment of Retired Personnel, electing Spouse and Children SBP coverage; however, did not list any of his children in Block 32, and listed his second child in Block 37 as an insurable interest beneficiary. Defense Finance and Accounting Service (DFAS) received the form on 1 April 2019.

g. Petitioner transferred to the Retired List effective 1 June 2019 and DFAS began SBP Spouse only premium deductions; children were not listed in Block 32 of Petitioner's DD Form 2656, Data for Payment of Retired Personnel.

h. On 27 October 2021, Petitioner's second child, [REDACTED] Primary Care Manager certified "[REDACTED] condition is not expected to improve over time. He is considered to be permanently and totally incapacitated."

CONCLUSION

Upon review and consideration of all the evidence of record the Board finds the existence of an injustice warranting the following corrective action. The Board concluded Petitioner provided sufficient evidences to reflect his son is incapacitated and establishment of SNT. Although Petitioner did not complete the proper administrative requirements, the Board felt that under these circumstances, relief is warranted.

RECOMMENDATION

That Petitioner's naval record be corrected, where appropriate, to show that:

Petitioner's DD Form 2656, Data for Payment of Retired Personnel, dated 8 March 2019 is amended to reflect the following:

Block 32 (Dependent Children)

a. Name	b. SSN	c. Date of Birth	d. Relationship	e. Disabled?
[REDACTED]	[REDACTED]	[REDACTED]	Son	No
[REDACTED]	[REDACTED]	[REDACTED]	Son	Yes
[REDACTED]	[REDACTED]	[REDACTED]	Daughter	No
[REDACTED]	[REDACTED]	[REDACTED]	Daughter	No

Block 37 (Insurable Interest Beneficiary) is void.

This change will begin Petitioner's election of SBP Spouse and Children coverage, based on full retired pay level of coverage, effective 1 June 2019.

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A copy of this Report of Proceedings will be filed in Petitioner's naval record.

4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above-entitled matter.

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(e)), and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of the reference, has been approved by the Board on behalf of the Secretary of the Navy.

2/11/2022

[REDACTED]

Deputy Director

Signed by: [REDACTED]