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UNITED STATES AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2024-03325

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COUNSEL: NONE

HEARING REQUESTED: NO

APPLICANT'S REQUEST

Her election of benefits under the Survivor Benefit Plan (SBP) be changed. Specifically, to decline participation SBP.

APPLICANT'S CONTENTIONS

She would like to opt out of SBP and remove any debt incurred after October 2019. She should not be responsible for incurring debt from a program she made clear she no longer wanted, especially after a Department of Veterans Affairs (DVA) representative provided inaccurate information. She and a few other members were being out-processed and given a briefing from the DVA where incorrect information concerning SBP options was provided. When asked to explain the options, the representative made it clear if she elected to opt into SBP, she could cancel any time after she retired. She requested to opt out in 2020 by notifying the DVA, where she was told she was no longer covered under SBP. She also never received a letter from the DVA. The misinformation caused her to incur debt she did not know she had until the Defense Finance and Accounting Service (DFAS) made her aware.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a disability retired Air Force staff sergeant (E-5).

On 6 Sep 19, according to DD Form 2656, *Data for Payment of Retired Personnel*, the applicant elected Option B (Coverage for Spouse and Child[ren]) based on full retired pay.

On 29 Oct 19, according to Special Order **Work-Product**, dated 5 Sep 19, the applicant was relieved from active duty and placed on the Permanently Disability Retired List, effective 30 Oct 19, with a compensable percentage for physical disability of 60 percent.

In an email to the AFBCMR, dated 26 Mar 24, provided by the applicant, the applicant indicated she has maintained a 100 percent disability rating by the DVA since Oct 19.

For more information, see the excerpt of the applicant's record at Exhibit B and the advisory at Exhibit C.

AIR FORCE EVALUATION

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AFPC/DPFC (Casualty Matters Division) recommends denying the application. All retiring service members are required to attend a mandatory SBP briefing conducted by a certified Air Force SBP counselor prior to their retirement date. This briefing provides comprehensive information about SBP options, coverage levels, and associated costs. Details from the briefing are recorded in the SBP Report of Individual Personnel (RIP) document, which is provided to the member for future reference. This requirement ensures members are fully informed of their rights and obligations under SBP, as stipulated by 10 U.S.C. § 1448(a). Members and their spouses, if applicable, receive personalized retired pay and SBP cost estimates, which are either generated using the retired pay estimation calculator on the *MyAirForceBenefits* website or manually calculated for those placed on the Temporary Disability Retired List (TDRL) or PDRL. These estimates allow members to make an informed decision about their SBP election. Once the member decides on their SBP election, they complete DD Form 2656. If the member is married, spousal concurrence is required for any election that provides less than the maximum coverage. This requirement is in accordance with 10 U.S.C. § 1448(a)(3)(A), which mandates that the spouse be informed and provide written consent for elections that reduce or decline SBP coverage. Members may change or finalize their SBP election any time prior to their retirement date, but once retired, the election becomes binding. An election cannot be arbitrarily terminated as long as the beneficiary remains eligible, thereby safeguarding the financial security of the beneficiary. Retirees have a one-year period, beginning in the 25th month and ending in the 36th month following the commencement of retired pay, during which they may voluntarily discontinue SBP participation. This provision is outlined in 10 U.S.C. § 1448a(a). If the retiree does not exercise this option within the specified timeframe, the SBP election becomes permanent and irrevocable for as long as the beneficiary remains eligible. This statutory framework ensures retirees have an opportunity to reassess their SBP participation while maintaining the integrity of the program.

Legal Provisions Governing SBP: 1.) 10 U.S.C. § 1448(a): Governs the requirement for SBP elections at retirement, the options for coverage, and the need for spousal concurrence when applicable. 2.) 10 U.S.C. § 1448a(a): Establishes the one-time, one-year disenrollment period for retirees, beginning in the 25th month of retired pay. 3.) 10 U.S.C. § 1448(b): Describes eligibility criteria for beneficiaries and the irrevocability of SBP elections beyond the applicable disenrollment period. The SBP election is considered permanent and is irrevocable as long as the beneficiary remains eligible.

The applicant's SBP RIP and DD Form 2656, both dated 6 Sep 19, confirm her election of spouse and child[ren] coverage at the full base amount. The DD Form 2656, signed and witnessed by an SBP Counselor, and the SBP RIP, which outlines the SBP program's process and guidelines, indicate the applicant received the proper briefing on her SBP election prior to her retirement on 30 Oct 19. According to Department of Defense (DoD) Person Search records, the applicant was married to her spouse at the time of retirement and remains married, with dependent children.

The applicant's election of SBP coverage was properly documented and witnessed by an SBP counselor, who briefed her on the program's requirements, processes, and timeframes. The signed DD Form 2656 and SBP RIP indicate that she was informed about her election and the financial implications. The applicant's claim that inaccurate information from the DVA led to her incurring an SBP-related debt cannot be validated, as there is no evidence of what was communicated to or from the DVA. It is important to note that the SBP program is administered by the DoD, not the DVA. The responsibility for understanding and managing SBP coverage falls with the service member, and the applicant was provided all necessary information at the time of her briefing. Her current debt stems from unpaid SBP premiums, which she may resolve by selecting one of two available payment options. If the applicant no longer wishes to retain SBP coverage, she must meet the eligibility criteria for disenrollment. Under Public Law 105-85, the applicant may apply to

disenroll if she has been rated 100 percent disabled by the DVA for five consecutive years since her retirement on 30 Oct 19. She must submit a formal request to DFAS with the required supporting documents, including a DVA letter verifying her 100 percent disability status for the qualifying period. Disenrollment instructions are available on the DFAS website (www.dfas.mil). The applicant will need to establish a repayment plan for any outstanding premiums to resolve her debt promptly and avoid additional financial penalties.

The complete advisory opinion is at Exhibit C.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION

The Board sent a copy of the advisory opinion to the applicant on 27 Jan 25 for comment (Exhibit D) but has received no response.

FINDINGS AND CONCLUSION

1. The application was not timely filed. The Board also notes the applicant did not file the application within three years of discovering the alleged error or injustice, as required by Section 1552 of Title 10, United States Code, and Department of the Air Force Instruction (DAFI) 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*.
2. The applicant exhausted all available non-judicial relief before applying to the Board.
3. After reviewing all Exhibits, the Board concludes the applicant is not the victim of an error or injustice. The Board concurs with the rationale and recommendation of AFPC/DPFC and finds a preponderance of the evidence does not substantiate the applicant's contentions. The applicant claims a DVA representative provided her with inaccurate information regarding SBP; however, she failed to provide evidence to support this claim. The signed DD Form 2656 and SBP RIP indicate a certified SBP counselor briefed the applicant on the options, effects, and financial implications of SBP. She was provided all necessary information during her briefing and she made a valid election to participate in SBP. Additionally, SBP is administered by DoD. The DVA does not advise members on SBP matters. Finally, the applicant may be eligible to disenroll from SBP based on her 100 percent disability rating established DVA. Eligibility for disenrollment and instructions may be found on the DFAS website (www.dfas.mil). Therefore, the Board recommends against correcting the applicant's records.

RECOMMENDATION

The Board recommends informing the applicant the evidence did not demonstrate material error or injustice, and the Board will reconsider the application only upon receipt of relevant evidence not already presented.

CERTIFICATION

The following quorum of the Board, as defined in DAFI 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*, paragraph 2.1, considered Docket Number BC-2024-03325 in Executive Session on 29 May 25:

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, Panel Chair
, Panel Member

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, Panel Member

All members voted against correcting the record. The panel considered the following:

Exhibit A: Application, DD Form 149, w/atchs, dated 16 Sep 24.

Exhibit B: Documentary Evidence, including relevant excerpts from official records.

Exhibit C: Advisory, AFPC/DPFC, dated 24 Jan 25.

Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 27 Jan 25.

Taken together with all Exhibits, this document constitutes the true and complete Record of Proceedings, as required by DAFI 36-2603, paragraph 4.12.9.

6/15/2025

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Board Operations Manager, AFBCMR
Signed by: USAF

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