
RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2022-00796

Work-Product

COUNSEL: NONE

HEARING REQUESTED: NO

APPLICANT'S REQUEST

Her election of benefits under the Reserve Component Survivor Benefit Plan (RCSBP) be changed. Specifically, to decline participation in the RCSBP.

APPLICANT'S CONTENTIONS

In preparation for the commencement of retired pay, she submitted DD Form 2656, *Data for Payment of Retired Personnel*, notarized 30 Jul 20, with the intention to show she did not want to participate in the Survivor Benefit Plan (SBP). However, she did not select item 34 g, *I elect not to participate in SBP*, and the person processing the DD Form 2656 assumed she wanted to participate. She should have been advised item 34 was not marked, but she was not. She and her husband do not need to participate in SBP, and she does not want any more money deducted from her retirement pay.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a retired Air Force Reserve master sergeant (E-7), eligible to receive retired pay as of 13 Mar 21, when she turned age 60.

On 8 Aug 03, ARPC/DPPR sent the applicant the standard Notification of Eligibility for retired pay (20-year letter) informing her that she has completed the required years under the provisions of Title 10 United States Code, Section 12731 (10 U.S.C § 12731) and entitled to retired pay upon application prior to age 60. In addition, she was eligible to participate in the RCSBP and should receive detailed RCSBP information by certified mail within 60 days.

On 24 Oct 03, according to ARPC Form 123, *Reserve Component Survivor Benefit Plan Election Certificate*, dated 29 Oct 03, provided by ARPC/DPTT, the applicant elected Option C, *Immediate Annuity for Spouse and Child(ren)*, based on full retired pay.

On 3 Oct 04, according to Reserve Order EK-XXXX, dated 23 Jul 04, the applicant was assigned to the Retired Reserve Section and placed on the Air Force Reserve Retired List.

On 30 Jul 20, according to DD Form 2656, provided by ARPC/DPTT, the applicant in preparation for commencement of retired pay completed the form, in conjunction with her retirement application, marking in Section 33: Option C, *Previously elected or defaulted to immediate RCSCP Coverage (Do not make an election in Block 34, you have already elected coverage)*.

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

AIR FORCE EVALUATION

ARPC/DPTT recommends denying the application. The SBP is administered pursuant to 10 U.S.C., Subchapter II, Chapter 73. SBP pays a monthly benefit to designated survivors of an eligible Service member or retiree. SBP, and the associated RCSBP program, allows service members and retirees to ensure their designated beneficiaries continue to receive an annuity in place of their retired pay after their own death. All Reserve Component Service members who are eligible to participate in RCSBP, but who fail to make an election in the prescribed time will, by law, automatically have full, immediate RCSBP coverage for their dependent spouse and/or children, based upon dependents in the member's record in the Military Personnel Data System. In accordance with DoDI 1332.42, *Survivor Benefit Plan*, paragraph 4.4, a member can change an election in circumstances such as death of a spouse, divorce, or remarriage, within 12 months of the life-changing event. The applicant did not submit a change to her original election due to a life-changing experience within the timeframe of the original election up until applying for retired pay.

On 22 May 03, the applicant completed 20 years of satisfactory service. RCSBP Notification of Eligibility takes approximately 120 days for members to receive as there is a delay in the Point Credit Summary to reflect the 20 satisfactory years in record. On 24 Oct 03, the applicant submitted ARPC Form 123 to the Air Reserve Personnel Center (ARPC) with her election for Option C, *Immediate annuity upon death regardless of age for Spouse and Child(ren)*.

On 30 Jul 20, in preparation for commencement of retired pay the applicant completed the DD Form 2656, in conjunction with her retirement application, marking in Section 33 that she had previously elected Option C as the original election, and did not make a new election on the form. A new election can only be made on the DD Form 2656 for Active Duty Retirements or Air Reserve Component (ARC) members that were previously enrolled into Option A, *Decline making an election until age 60*.

The applicant may discontinue participation in SBP between the period beginning on the 25th month of receipt of retired pay and ending on the 36th month. Once participation discontinues under this provision, the following applies: There will be no refund of premiums, no benefits will be paid in conjunction with previous participation and the applicant may not resume participation for any category of beneficiary

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 9 May 22, for comment (Exhibit D), but has received no response.

FINDINGS AND CONCLUSION

1. The application was timely filed.
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 ARPC/DPTT and finds a preponderance of the evidence does not substantiate the applicant's contentions. The Board does note that in accordance with DoDI 1332.42, the applicant may discontinue participation in SBP between the period beginning on the 25th month of receipt of retired pay and ending on the 36th month. 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 Air Force Instruction (AFI) 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*, paragraph 1.5, considered Docket Number BC-2022-00796 in Executive Session on 20 Oct 22:

, Panel Chair
, Panel Member
, Panel Member

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

Exhibit A: Application, DD Form 149, dated 28 Feb 22.
Exhibit B: Documentary Evidence, including relevant excerpts from official records.
Exhibit C: Advisory, ARPC/DPTT, w/atchs, dated 25 Apr 22.
Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 9 May 22.

Taken together with all Exhibits, this document constitutes the true and complete Record of Proceedings, as required by AFI 36-2603, paragraph 4.11.9.

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Board Operations Manager, AFBCMR