

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2022-00876

XXXXXXXXXXXXXXXXXX

COUNSEL: NONE

HEARING REQUESTED: NO

APPLICANT'S REQUEST

His record be changed to show he made a timely election to terminate coverage under the Survivor Benefit Plan (SBP).

APPLICANT'S CONTENTIONS

He no longer needs this benefit and has been trying to cancel coverage for more than two years. He submitted three termination requests. The first request was submitted too early and did not fall within the one-year cancellation period. The second request was submitted within the required timeframe, and although he received a receipt indicating the form was faxed successfully, Defense Accounting and Finance Service (DFAS) officials stated they did not receive the faxed form. The third request was dated after the cancellation period, but he was told to submit it to show he attempted to cancel his SBP coverage multiple times.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

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

On 17 July 2017, 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 October 2017, according to Special Order XXX-XXXX dated 12 July 2017, the applicant was permanently retired with a compensable percentage for physical disability of 80 percent.

On 25 October 2019, 22 April 2020 and 1 March 2021, according to DD Forms 2656-2, *Survivor Benefit Plan (SBP) Termination Request*, provided by the applicant, the applicant requested termination of SBP coverage, and his spouse concurred with each decision.

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

AIR FORCE EVALUATION

AFPC/DPFFF recommends granting the application. SBP Public Law 105-85 dated 18 November 1997, provides for a one-year period beginning on the 25th month following commencement of retired pay, during which SBP participants may choose to voluntarily discontinue participation. To disenroll, a member must submit a properly completed DD Form 2656-2 to DFAS-Cleveland (DFAS-CL) with the spouse's notarized consent. Withdrawals are effective the month following DFAS-CL's receipt of a valid request, there is no refund of premiums, and members cannot reenter the plan. To be valid, requests must be postmarked no later than the member's 36th month anniversary of receiving retired pay.

The applicant was married at the time of his retirement and elected SBP coverage. He was eligible to disenroll from SBP 1 December 2019 through 30 November 2020. With the assistance of a Casualty Assistance Representative (CAR)/SBP counselor, the applicant completed the required DD Form 2656-2 to terminate coverage and his spouse concurred with the termination. However, the CAR/SBP counselor erroneously completed the document six days before the applicant was eligible to terminate SBP. The documents were faxed to DFAS for processing and ultimately denied because he was not eligible to terminate on the date the documents were completed. Based on the Air Force error, the applicant's record should be corrected to show he submitted a timely DD Form 2656-2 on 2 December 2019 with his spouse's concurrence. All premiums paid after termination of SBP should be refunded.

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 28 September 2022, 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 the victim of an error or injustice. The Board concurs with the rationale and recommendation of AFPC/DPFFF and finds a preponderance of the evidence substantiates the applicant's contentions. Therefore, the Board recommends correcting the applicant's records as indicated below.

RECOMMENDATION

The pertinent military records of the Department of the Air Force relating to APPLICANT be corrected to show that:

- a. On 2 December 2019, he submitted a timely and effective election to terminate the Survivor Benefit Plan (SBP) and his spouse concurred with the decision.
- b. He be authorized full reimbursement of all premiums paid after termination of SBP.

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-2022-00876 in Executive Session on 15 December 2022:

- , Panel Chair
- , Panel Member
- , Panel Member

All members voted to correct the record. The panel considered the following:

- Exhibit A: Application, DD Form 149, w/atchs, dated 21 March 22.
- Exhibit B: Documentary Evidence, including relevant excerpts from official records.
- Exhibit C: Advisory, AFPC/DPFFF, dated 16 September 2022.

Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 28 September 2022.

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.

X

Board Operations Manager, AFBCMR