

**UNITED STATES AIR FORCE  
BOARD FOR CORRECTION OF MILITARY RECORDS****RECORD OF PROCEEDINGS****IN THE MATTER OF:****DOCKET NUMBER:** BC-2022-02375

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**

She has been trying for the past year via phone calls, emails and fax to the Defense Finance and Accounting Service to find out why Survivor Benefit Plan (SBP) premiums are being taken out of her retired pay. She recently discovered that she was supposed to have made an SBP election when she retired in 2011. However, she never met with anyone from the Force Support Squadron (FSS) to decline coverage so the election for coverage was automatic. There was no benefit to her to select an SBP election so many years before her retirement. She feels she was done a disservice from her local FSS at the time since no one notified her of the requirement to make an election.

The applicant's complete submission is at Exhibit A.

**STATEMENT OF FACTS**

The applicant is an Air National Guard senior master sergeant (E-8) authorized retired pay.

On 25 Nov 20, according to DD Form 2656, *Data for Payment of Retired Personnel*, the applicant elected Option G, *I elect not to participate in SBP*, and her spouse concurred.

On 27 Jul 21, according to Reserve Order **Work-Product**, dated 17 Aug 21, the applicant was assigned to the Retired Reserve Section and placed on the Air Force Reserve Retired List.

On 28 Jul 21, according to Special Order **Work-Product**, dated 25 Aug 21, the applicant was authorized retired pay and placed on the USAF Retired List.

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 (Transitions) recommends granting the application. 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 (MilPDS). The prescribed time limit for RCSBP election is before the end

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of the 90th day after the Service member receives notification of having completed the years of service to be eligible for non-regular retirement in accordance with 10 U.S.C. § 12731.

On 29 Jan 11, the applicant completed 20 satisfactory years of service; however, the 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. There is no confirmation in the system the applicant received her RCSBP notification of eligibility, which would have allowed her to make an election within the required timeframe of 90 days. The applicant's personnel record does not include PS Form 3811, *Domestic Return Receipt*, DD Form 2656-5, *Reserve Component Survivor Benefit Plan (RCSBP) Election Certificate* and/or ARPC Form 123, *Reserve Component Survivor Benefit Plan (RCSBP) Election Certificate*, that supports receipt of the notification of eligibility or an RCSBP election. The applicant was erroneously enrolled based on her eligible beneficiaries in MilPDS, which resulted in Option C, *Provide an immediate survivor annuity beginning on the day after death for spouse*, effective 25 Apr 11.

On 25 Nov 20, in preparation for commencement of retired pay the applicant completed DD Form 2656, in conjunction with her retirement application, requesting to not participate in SBP with the appropriate spouse concurrence.

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 14 Nov 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 the victim of an error or injustice. The applicant was required to receive a notification of eligibility in order to understand she had 90 days to make an election. As there was no confirmation of the notification of eligibility, the election on the DD Form 2656 should be received as the official election. Therefore, the Board concurs with the rationale and recommendation of ARPC/DPTT and finds a preponderance of the evidence substantiates the applicant's contentions. Accordingly, 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. She elected Option A, *Previously declined to make an election until eligible to receive retired pay*, for her Reserve Component Survivor Benefit Plan (RCSBP) within 90 days of her Notification of Eligibility.
- b. On 25 Nov 20, she elected not to participate in SBP and her spouse concurred with the decision.

c. She be authorized full reimbursement of all SBP premiums withheld from her retired pay.

**CERTIFICATION**

The following quorum of the Board, as defined in Department of the Air Force Instruction (DAFI) 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*, paragraph 2.1, considered Docket Number BC-2022-02375 in Executive Session on 20 Jul 23:

*Work-Product*, Panel Chair  
*Work-Product*, Panel Member  
*Work-Product*, Panel Member

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

- Exhibit A: Application, DD Form 149, no atchs, dated 24 Jun 22.
- Exhibit B: Documentary Evidence, including relevant excerpts from official records.
- Exhibit C: Advisory, ARPC/DPTS, dated 7 Nov 22.
- Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 14 Nov 22.

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.

9/13/2023

X *Work-Product*

Board Operations Manager, AFBCMR

Signed by: *Work-Product*