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**UNITED STATES AIR FORCE
BOARD FOR CORRECTION OF MILITARY RECORDS**

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2022-03196

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 and be reimbursed all funds incorrectly taken from her retirement pay.

APPLICANT'S CONTENTIONS

She wants the system to properly reflect the paperwork she filed.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a retired Air Force Reserve Major (O-4).

On 9 Sep 04, according to [redacted] *Work-Product*, dated 2 Aug 04, the applicant was assigned to the Retired Reserve Section and placed on the Air Force Reserve Retired List.

On 8 Mar 05 ARPC/DPTT 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 8 Sep 06, according to ARPC Form 123, *Reserve Component Survivor Benefit Plan Election Certificate*, the applicant elected Option A, *Decline to Make an Election Until Age 60*.

On 22 Apr 20 according to DD Form 2656, *Data for Payment of Retired Personnel*, the applicant elected Option C, *Previously elected or defaulted to immediate RCSBP Coverage*.

On 19 Apr 21, according to [redacted] *Work-Product*, dated 30 Mar 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.

AFBCMR Docket Number BC-2022-03196

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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 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 10 Dec 03, 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 the record. Due to lack of initial notification in 2003/2004, the applicant was not notified until 2006. On 8 Sep 06, the applicant signed and submitted ARPC Form 123 electing Option A; however, the applicant's record was incorrectly updated by an Air Reserve Personnel Center technician in MilPDS, which resulted in Option C.

On 22 Apr 20, in preparation for commencement of retired pay the applicant completed DD Form 2656, in conjunction with her retirement application, requested to participate in Survivor Benefit Plan (SBP) for Child Only coverage. On the DD Form 2656, the applicant incorrectly noted on Section 33, Reserve Component Only, that she previously had RCSBP coverage for Child only. The applicant should have stated she elected Option A.

It is significant for the applicant to be aware that her children have aged out of their eligibility for SBP annuity. In accordance with the Department of Defense 7000.14-R, *Financial Management Regulation*, Volume 7B, Chapter 44: Survivor Benefit Plan Beneficiaries, Section 2.2, children are eligible beneficiaries up to the age of 18 (or 22 if unmarried and a full-time student). The applicant's children are aged out of the SBP. When a member becomes eligible for SBP and their children have aged out of the program, they should not be having SBP deductions for child coverage taken from their retired pay. Neither of the applicant's children are disabled.

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 Mar 23, 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 ARPC/DPTT 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. She elected Option A, *Previously declined to make an election until eligible to receive retired pay*, for her RCSBP within 90 days of her Notification of Eligibility.
- b. On 22 Apr 20, she elected not to participate in SBP.
- b. 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-2022-03196 in Executive Session on 17 Aug 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, w/atchs, dated 5 Dec 22.
- Exhibit B: Documentary Evidence, including relevant excerpts from official records.
- Exhibit C: Advisory, ARPC/DPTT, dated 3 Mar 23.
- Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 9 Mar 23.

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.

9/14/2023

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Board Operations Manager, AFBCMR
Signed by: Work-Product