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

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2023-00819

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COUNSEL: NONE

HEARING REQUESTED: NO

APPLICANT'S REQUEST

Her record be changed to show she made a timely election to decline coverage under the Survivor Benefit Plan (SBP).

APPLICANT'S CONTENTIONS

She completed her mandatory SBP briefing and elected to decline coverage with her spouse's concurrence on 12 Jan 22; however, the documents were missing signatures. This oversight was not caught by the SBP counselor and was sent to the Defense Finance and Accounting Service Cleveland (DFAS-CL). DFAS-CL deemed the document invalid; therefore, automatic coverage was established. In an effort to correct her record, her wounded warrior case manager notified the Air Force Personnel Center (AFPC) SBP office for assistance. Due to delayed communications the one-year retirement window for administrative corrections had lapsed. This is time sensitive as she has already paid premiums and continues to pay monthly into a program she did not elect to participate in.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a retired Air Force senior airman (E-4).

On 8 Feb 22, according to DD Form 2656, *Data for Payment of Retired Personnel*, the applicant elected Option G, *Elect Not to Participate in SBP*, and her spouse concurred with the decision.

On 13 Mar 22, according to Special Order **Work-Product**, dated 3 Jan 22, the applicant was placed on the Temporary Disability Retired List, with a 60 percent disability rating.

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 (SBP Program) recommends granting the application. Members are required to attend a one-on-one SBP counseling with an Air Force certified SBP Counselor and make an SBP election to include a declination if appropriate prior to retiring. Public Law 99-145, 8 Nov 85, established the requirement that a spouse's written concurrence be obtained if a member, who retires on or after 1 Mar 86, elects less than full spouse SBP coverage (10 U.S.C. § 1448 (a)(3)). The applicant's SBP election is recorded on DD Form 2656, prior to the official retirement date.

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If there is an error on the form to include missing dates, signatures, spouse concurrence, notary signature, and other discrepancies the election is deemed invalid by DFAS-CL and auto coverage is established to comply with the law. When the discrepancy is found to be an administrative error and it is within one year of the member's retirement date, 10 U.S.C. § 1454 gives authority to each branch of service to administratively correct the record directly with DFAS-CL. However, if it is beyond the one-year window the member must seek relief through other administrative avenues.

The applicant was counseled on the effects, options, and provisions of the SBP and completed her required DD form 2656 with her spouse's notarized concurrence prior to her 13 Mar 22 retirement. After retirement the applicant discovered she was auto enrolled because DD Form 2656 sent to DFAS-CL had not been signed by the applicant, nor the SBP counselor. This action caused the election to be deemed invalid and DFAS-CL established auto-coverage to comply with the law. Subsequently, the applicant's wounded warrior non-medical case manager engaged with the SBP counselor and SBP office to locate a signed DD Form 2656. However, there was not a copy that had the appropriate signatures on file with the Air Force. Although, there was an attempt to have the applicant's election corrected, due to administrative delays beyond the applicant's control, the one-year allowable time had lapsed. The applicant's spouse completed a statement of spouse concurrence to decline coverage which is signed and notarized as of 16 Mar 23.

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 12 Apr 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 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 12 Jan 22, she elected not to participate in SBP and her spouse concurred with the decision.
- b. She be authorized full reimbursement of all SBP premiums withheld from her retired pay or if there is a direct remittance debt for premiums the account be corrected to show no debt.

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-2023-00819 in Executive Session on 16 Nov 23:

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Work-Product Panel Chair
Work-Product Panel Member
Work-Product e, Panel Member

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

- Exhibit A: Application, DD Form 149, w/atchs, dated 22 Mar 23.
- Exhibit B: Documentary Evidence, including relevant excerpts from official records.
- Exhibit C: Advisory Opinion, AFPC/DPFFF, dated 28 Mar 23.
- Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 12 Apr 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.

12/7/2023

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Board Operations Manager, AFBCMR
Signed by: Work-Product