

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2023-01401

XXXXXXXXXXXXXXXXXX

COUNSEL: NONE

HEARING REQUESTED: YES

APPLICANT'S REQUEST

1. Defense Finance and Accounting Service (DFAS) discontinue Reserve Component Survivor Benefit Plan (RCSBP) premium collections.
2. DFAS reimburse premiums collected since he disenrolled in the Survivor Benefit Plan (SBP).

APPLICANT'S CONTENTIONS

He was unaware of the terms and costs associated with RCSBP and SBP. While he was able to cancel SBP coverage, he was informed by a DFAS representative that he is required to pay \$43.51 for 360 months to recover the cost of RCSBP coverage from the date he made an election until the date he began receiving retirement pay. He does not have a spouse or children and elected immediate coverage for an insurable interest, expecting coverage and premiums to begin immediately once he reached retirement age and began receiving retirement pay. Nowhere on ARPC Form 123, *Reserve Component Survivor Benefit Plan Election Certificate*, does it state the cost for coverage or that there will be a cost for 360 months. He would not have set up an annuity and pay for coverage for 30 years, even after coverage has been canceled.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a retired Air Force Reserve first lieutenant (O-2) receiving retired pay.

On 1 Apr 01, according to Reserve Order XX-XXXX, dated 12 Jan 01, the applicant was assigned to the Retired Reserve Section and placed on the Air Force Reserve Retired List.

On 29 Sep 01, ARPC/DPPRB sent the applicant the standard Notification of Eligibility for retired pay (20-year letter) informing him that he 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, he was eligible to participate in the RCSBP and should receive detailed RCSBP information by certified mail within 30 days.

On 1 Nov 01, according to ARPC Form 123, the applicant elected Option C, *Immediate annuity for natural person with insurable interest*, based on full retired pay, naming his sister as beneficiary.

On 16 Mar 22, 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 31 Jul 22, according to Reserve Order XX-XXXX dated 29 Jun 22, the applicant was authorized retired pay and placed on the United States Air Force Retired List.

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

APPLICABLE AUTHORITY

DoD 7000.14-R, *Financial Management Regulation*, Volume 7B, Chapter 54, paragraph 540213. Reserve Component Premium: When a Reserve member participates in the RCSBP after first becoming eligible based on 20 qualifying years of satisfactory service, coverage for the member's survivors commence but premiums are not paid until the member first becomes entitled to retired pay (usually age 60). At that time, reductions in the member's retired pay are made that are specifically related only to RCSBP coverage that was already provided while the member awaited the requisite age of entitlement to retired pay. These reductions are the Reserve Component Premiums.

DoD 7000.14-R, Volume 7B, paragraph 540405. Natural Person with Insurable Interest Pursuant to 10 U.S.C. § 1448(b), any Reserve member who is not married and does not have a dependent child, may elect to provide RCSBP coverage for a natural person with an insurable interest.

DoD 7000.14-R, Volume 7B, paragraph 540701. "Elections filed during the 90-day period referred to in paragraph 540401 are generally irrevocable unless revoked before the expiration of the 90-day period."

DoD 7000.14-R, Volume 7B, paragraph 540702. As an exception to the general rule on irrevocability, a member may voluntarily terminate RCSBP coverage at any time for a natural person with insurable interest who is not a former spouse.

10 U.S.C. § 1448a states participants may elect to discontinue participation in SBP during qualifying periods. Previously paid premiums will not be refunded, and participation in the Plan may not be resumed except through a qualified election.

AIR FORCE EVALUATION

ARPC/DPTT (Transition Division) recommends denying the application. Pursuant to 10 U.S.C., Subchapter II, Chapter 73, SBP and RCSBP allow 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 their dependents in the Military Personnel Data System. 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 31 Mar 01, 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 20 satisfactory years in the record. The applicant signed ARPC Form 123 and elected Option C, effective 1 Nov 01, naming his sister as the beneficiary. On 16 Mar 22, in preparation for commencement of retired pay, the applicant completed DD Form 2656 and elected Option C. His RCSBP election automatically converted to SBP coverage upon his eligibility to receive retired pay, effective 31 Jul 22. He received the benefit of the RCSBP coverage and must continue to pay premiums for the coverage he received.

According to DoD 7000.14-R, Volume 7B, Chapter 54, a member may voluntarily terminate RCSBP coverage for a natural person with an insurable interest who is not a former spouse. In addition, 10 U.S.C., Subsection 148 (b)(E), states, "Once participation is discontinued, benefits

may not be paid in conjunction with the earlier participation in the Plan and premiums paid may not be refunded. Participation in the Plan may not later be resumed except through a qualified election.”

From the date of election until the date he reached retired pay status, the applicant had the opportunity to cancel coverage for his insurable interest but failed to do so. He is not eligible to change his RCSBP election, nor is he eligible for a refund of previously paid premiums.

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 30 Oct 23, for comment (Exhibit D), and the applicant replied on that same date. In his response, the applicant contended he retired from the Air Force Reserve on 1 Apr 01 and signed ARPC Form 123 on 1 Nov 01. He was never briefed by an RCSBP counselor when he made the election, nor did he receive an RCSBP Pamphlet or materials on the cost of premiums. He was not aware of the full implementation of his selection, only that he had to make a selection. He was never informed by ARPC he could cancel the election any time during the 22-year period from the date he retired to the date he became eligible for retired pay. He is single with no known children and does not have a need for life insurance or annuities. He requests to be completely disenrolled, deductions be discontinued immediately, and he be refunded premiums he paid since discontinuing SBP.

The applicant’s complete response is at Exhibit E.

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. According to governing guidance, a member may voluntarily terminate coverage at any time for a natural person with insurable interest who is not a former spouse. The applicant could have elected to cancel RCSBP coverage for his insurable interest but failed to do so. Because he received the benefit of having RCSBP coverage, he must pay premiums for the coverage he received. While the applicant was able to terminate SBP coverage, he is not eligible for reimbursement of previously paid SBP premiums. Therefore, the Board recommends against correcting the applicant’s records.
4. The applicant has not shown a personal appearance, with or without counsel, would materially add to the Board’s understanding of the issues involved.

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 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-2023-01401 in Executive Session on 14 Dec 23:

, 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 25 Apr 23.
Exhibit B: Documentary Evidence, including relevant excerpts from official records.
Exhibit C: Advisory, ARPC/DPTT, dated 26 Oct 23.
Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 30 Oct 23.
Exhibit E: Applicant's Response, dated 30 Oct 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.

X

Board Operations Manager, AFBCMR