

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

Work-Product

RECORD OF PROCEEDINGS**IN THE MATTER OF:****DOCKET NUMBER:** BC-2023-01648

Work-Product

COUNSEL: Work-Product**HEARING REQUESTED:** Work-P...

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APPLICANT'S REQUEST

1. His election of benefits under the Survivor Benefit Plan (SBP) be changed. Specifically, to convert spouse and child(ren) coverage to child(ren) only coverage.
2. He be refunded the difference for past deductions.

APPLICANT'S CONTENTIONS

Prior to his retirement, he and his spouse submitted DD Form 2656, *Data for Payment of Retired Personnel*, with an SBP election for child(ren) only coverage. Due to an administrative error on the form, their election was changed to spouse and child(ren) coverage. After several unsuccessful attempts to resolve the issue, he was referred to the AFBCMR.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a retired Air Force Reserve lieutenant colonel (O-5).

On 7 Sep 21, according to DD Form 2656, the applicant elected Option A, *Previously declined to make an election until eligible to receive retired pay*, and Option C, *I elect coverage for child(ren) only*. His spouse concurred with the decision with a signature date of 4 Sep 21.

According to ARPC/DPTT memorandum dated 12 Nov 21, the applicant's record was updated with RCSBP election Option (C): *Provide an annuity on day after date of death*, for spouse and child maximum coverage, effective 8 Nov 17.

On 24 Nov 21, ARPC/DPTT sent the applicant the standard notification of eligibility (NOE) for retired pay (20-year letter) informing him that as of 11 May 17, 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 Reserve Component Survivor Benefit Plan (RCSBP). The letter also informed the applicant in the event he became entitled under any other provision of law to retired pay, he would no longer be entitled to retired pay under 10 U.S.C. § 12731 or coverage under RCSBP.

On 1 May 22, according to Special Order Work-Product, dated 16 Nov 21, the applicant was placed on the United States Air Force Retired List pursuant to 10 U.S.C. § 8911 and authorized retired pay.

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

APPLICABLE AUTHORITY

DoDI 1332.42, *Survivor Benefit Plan*, the Secretary concerned must notify all members who are eligible to elect to participate in the SBP and RCSBP programs, such that: (1) Members qualifying for a Regular or disability retirement pursuant to Chapter 61 of Title 10 U.S.C. will be notified of their eligibility to participate in SBP before retirement; and (2) Members qualifying for a non-regular retirement pursuant to Chapter 1223 of Title 10, U.S.C. will be notified of their eligibility to participate in RCSBP, and SBP, upon Notice of Eligibility.

AIR FORCE EVALUATION

ARPC/DPTT (Transition Division) 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 11 May 17, the applicant completed 20 satisfactory years of service; however, the RCSBP NOE 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. There was no evidence of confirmation of an NOE sent to the applicant at the time of eligibility. Due to the applicant not being notified to make an election, his initial 90-day election period expired without action. This triggered MilPDS to update an automatic, non-response election for RCSBP Option C. On 4 Sep 21, in preparation for commencement of retired pay, the applicant completed DD Form 2656, electing Option A, and his spouse concurred with the election. However, DD Form 2656 is not an official election form for RCSBP. In addition, the applicant's spouse used a signature date prior to that of the applicant's, rendering the form invalid. The spouse's signature must reflect a date on or after the date of the service member's signature.

The applicant was never officially notified of his RCSBP election options and was erroneously enrolled in RCSBP Option C. The Air Reserve Personnel Center retirement technician should have discovered the discrepancies with the signature dates and the erroneous election caused by automatic enrollment. The RCSBP election should be removed, and the applicant should be eligible to make an SBP election for child(ren) only.

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 23 Aug 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. He elected Option A, *I decline to make an election until eligible to receive retired pay*, for his RCSBP within 90 days of his Notification of Eligibility, and his spouse concurred with the decision.

b. On 7 Sep 21, he made a timely and effective election for child(ren) only coverage under SBP and, his spouse concurred with the decision.

c. He be refunded any overpayment of SBP premiums, less the cost of child[ren] only premiums.

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-2023-01648 in Executive Session on 29 Feb 24:

- 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 17 May 23.
- Exhibit B: Documentary Evidence, including relevant excerpts from official records.
- Exhibit C: Advisory, ARPC/DPTS, dated 14 Aug 23.
- Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 23 Aug 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.

9/11/2025

X **Work-Product**

Board Operations Manager, AFBCMR
Signed by: USAF