

## RECORD OF PROCEEDINGS

**IN THE MATTER OF:**

**DOCKET NUMBER:** BC-2023-01905

XXXXXXXXXXXXXXXXXXXX

**COUNSEL:** NONE

**HEARING REQUESTED:** YES

### APPLICANT'S REQUEST

His record be changed to show he made a timely election for spouse and child coverage under the Survivor Benefit Plan (SBP).

### APPLICANT'S CONTENTIONS

In Sep 17 when he retired, he was single. In Oct 19, he married his wife and added her to his SBP within two months of marriage. Their daughter was born prematurely in Nov 20 and required treatment in the neonatal intensive care unit (NICU). Due to the pandemic, they focused on social distancing and family health. On 30 Nov 21, he received an SBP update reminder, and mailed notarized DD Form 2656-6, *Survivor Benefit Plan Election Change Certificate*, on 1 Dec 21; however, the submission was denied as it arrived six days past his daughter's first birthday. He was advised to resubmit during open season, which he did on 6 Feb 23, but that request was also denied because it was past her first birthday. Given the extenuating circumstances of her first year combined with navigating the global pandemic, he requests support to add his daughter to his SBP.

The applicant's complete submission is at Exhibit A.

### STATEMENT OF FACTS

The applicant is a retired Air Force colonel (O-6).

On 1 Mar 17, according to DD Form 2656, *Data for Payment of Retired Personnel*, the applicant indicated he was single with no dependent children and elected Option G, *I elect not to participate in SBP*.

On 1 Sep 17, according to Special Order XX-XXXXXX, dated 26 Sep 16, the applicant retired from the Regular Air Force.

On 30 Nov 20, according to a Certificate of Birth, provided by the applicant, his daughter was born.

In letters dated 24 Feb 22 and 15 Apr 23, provided by the applicant, the Defense Finance and Accounting Service (DFAS) notified the applicant his request to add SBP coverage for his daughter was denied as he failed to submit the election within one year of the child's birth.

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 (Casualty Matters Division) recommends denying the application. Prior to a member's retirement they must attend a mandatory SBP briefing that provides the options and effects of the plan. The member signs the SBP Record of Individual Personnel acknowledging the

information is understood and completes DD Form 2656 with the desired election. Both documents are provided to the member for future reference.

A member, who is unmarried with no dependent children at retirement, may later elect coverage for a spouse and/or child acquired after retiring. However, the election must be made before the first anniversary of the marriage and within the first year of the birth of the child. Once the one-year period has elapsed, no election can be made. It is the responsibility of each retiree to take timely and appropriate action to ensure their spouse and/or children are properly designated for military benefits. The only provision permitting such an election is a congressionally mandated SBP open season. The 2023 SBP Open Season did not provide a provision specific to the applicant's request.

Defense Eligibility Enrollment Reporting System records reflect the applicant was not married and had no dependent children at the time of his 1 Sep 17 retirement; therefore, he declined coverage. However, after he married on 5 Oct 19, he elected SBP coverage for his spouse and began paying the associated premiums on the one-year anniversary of their marriage. On 30 Nov 20, the couple's daughter was born prematurely and spent 17 days in the NICU. The applicant had one year from her date of birth (30 Nov 21) to add child coverage. Despite the brief hospital stay during the pandemic, the applicant had ample time to contact local SBP counselors for assistance or submit documents directly to DFAS to add SBP coverage for his daughter.

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 Nov 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 not 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 does not substantiate the applicant's contentions. 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-2023-01905 in Executive Session on 30 May 24:

, Panel Chair  
, Panel Member  
, Panel Member

All members voted against correcting the record. The panel considered the following:

Exhibit A: Application, DD Form 149, w/atchs, dated 1 Jun 23.

Exhibit B: Documentary Evidence, including relevant excerpts from official records.

Exhibit C: Advisory, AFPC/DPFFF, dated 24 Nov 23.

Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 30 Nov 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