

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2023-02102

XXXXXXXXXXXXXXXXXX

COUNSEL: NONE

HEARING REQUESTED: NO

APPLICANT'S REQUEST

His election of benefits under the Survivor Benefit Plan (SBP) be changed. Specifically, to convert spouse and child[ren] coverage to spouse only coverage.

APPLICANT'S CONTENTIONS

He erred when he initially elected coverage for spouse and child[ren], as he did not realize his adult children would not be covered under SBP. He is paying for a benefit that will not revert to his children.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is retired Air National Guard lieutenant colonel (O-5).

On 20 Dec 04, ARPC/DPTT 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 Reserve Component Survivor Benefit Plan (RCSBP) and should receive detailed RCSBP information by certified mail within 60 days.

On 10 Jan 21, according to DD Form 2656, *Data for Payment of Retired Personnel*, the applicant elected SBP Option A, *I elect coverage for spouse only*, based on full retired pay. He did not indicate a prior RCSBP selection.

On 5 May 21, according to Reserve Order XX-XXXX, dated 26 Apr 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.

AIR FORCE EVALUATION

ARPC/DPTT (Transition Division) recommends granting the application. SBP, pursuant to 10 U.S.C., Subchapter II, Chapter 73, pays a monthly benefit to designated survivors of an eligible service member or retiree. SBP, and the associated RCSBP program, allows service members and retirees to ensure their designated beneficiaries continue to receive an annuity in place of their retired pay after their 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 reflected in the Military Personnel Data System (MilPDS).

On 2 Oct 04, 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. There is no confirmation in the system of the applicant receiving the RCSBP Notification of Eligibility, which would have allowed him to make an election within the required 90-day timeframe. The applicant's personnel record does not include the PS Form 3811, *Domestic Return Receipt*, DD Form 2656-5, *Reserve Component Survivor Benefit Plan (RCSBP) Election Certificate*, and/or ARPC Form 123, *Reserve Component Survivor Benefit Plan Election Certificate*, that supports the Notification of Eligibility receipt or an RCSBP election. The applicant was erroneously enrolled based on his eligible beneficiaries in MilPDS.

On 10 Jan 21, in preparation for commencement of retired pay the applicant completed DD Form 2656 in conjunction with his retirement application. The applicant did not select coverage under RCSBP and erroneously selected SBP spouse only coverage. The applicant was never notified of his RCSBP election options; therefore, the erroneous automatic enrollment should be removed, and he should be eligible to make an election for SBP spouse only coverage at this time.

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 26 Oct 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, *Previously declined 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 10 Jan 21, he elected spouse only coverage under the SBP based on full retired pay.
- c. Approval should be contingent upon recovery of SBP 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-2023-02102 in Executive Session on 28 Mar 24:

, Panel Chair
, Panel Member
, Panel Member

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

Exhibit A: Application, DD Form 149, w/atchs, dated 20 Jun 23.
Exhibit B: Documentary Evidence, including relevant excerpts from official records.
Exhibit C: Advisory, ARPC/DPTT, dated 19 Oct 23.
Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 26 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.

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Board Operations Manager, AFBCMR