

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2023-03091

XXXXXXXXXXXXXX

COUNSEL: NONE

HEARING REQUESTED: NO

APPLICANT'S REQUEST

His election of benefits under the Reserve Component Survivor Benefit Plan (RCSBP) be changed. Specifically, to convert his election for a natural person with insurable interest to spouse coverage.

APPLICANT'S CONTENTIONS

Upon marriage in 2005, he submitted the appropriate paperwork to replace his sister with his wife as his primary beneficiary for the Survivor Benefit Plan (SBP). However, he recently discovered the change was never completed by his personnel office.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a retired Air National Guard senior master sergeant (E-8).

On 18 Aug 03, 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 RCSBP and should receive detailed RCSBP information by certified mail within 60 days.

On 6 Sep 03, according to ARPC Form 123, *Reserve Component Survivor Benefit Plan Election Certificate*, dated 10 Sep 03, the applicant elected Option C, *Immediate annuity for natural person with insurable interest*, based on full retired pay, naming his sister as the beneficiary.

On 17 Sep 05, according to a Certificate of Marriage, provided by the applicant, he married his current spouse.

On 20 Sep 22, according to Reserve Order XX-XXXXXX dated 10 Aug 22, the applicant was authorized retired pay and placed on the United States Air Force Retired List.

On 22 Dec 22, according to DD Form 2656-6, *Survivor Benefit Plan Election Change Certificate*, the applicant requested a change in coverage due to marriage and elected coverage for spouse only based on full retired pay.

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 denying the application. SBP is administered pursuant to 10 U.S.C., Subchapter II, Chapter 73. SBP 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 must make an election before the end of the 90th day after receiving the notification of having completed the years of service to be eligible for non-regular retirement in accordance with 10 U.S.C. § 12731. On 19 May 03, 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 the 20 satisfactory years in record. On 6 Sep 03, the applicant signed ARPC Form 123 electing Option C and naming his sister as the beneficiary.

In accordance with Department of Defense Instruction (DoDI) 1332.42, *Survivor Benefit Plan*, Section 4.4(s)(1)(c), “A covered participant who did not have a spouse or former spouse when he or she was initially eligible to make an election to participate in SBP or RCSBP, who later marries, may elect within one year of marriage to cover the new spouse (coverage is not automatic). If the previous election was for an insurable interest beneficiary, the coverage must be terminated in order to cover the new spouse, effective as of the date of the first anniversary of the marriage.”

The applicant married his current spouse on 29 Aug 05 and states the proper documentation was submitted within the required timeframe. The Benefits and Entitlements office did not receive the required documentation, and contacted the Defense Finance and Accounting Service who had record of the DD Form 2656-6, dated 22 Dec 22 and DD Form 2656-8, *Survivor Benefit Plan (SBP) – Automatic Coverage Fact Sheet*, dated 13 Jun 23. However, there is no record of the applicant submitting the documents within one year of marriage to the appropriate office.

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 8 Feb 24 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 ARPC/DPTT and finds a preponderance of the evidence does not substantiate the applicant’s contentions. There is no evidence the applicant submitted a change of election to add SBP coverage for his spouse within one year of marriage. Therefore, the Board recommends against correcting the applicant’s records.

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-2023-03091 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 28 Aug 23.

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

Exhibit C: Advisory, ARPC/DPTT, w/atchs, dated 6 Feb 24.

Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 8 Feb 24.

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