



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

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2023-03329

Work-Product

COUNSEL: NONE

HEARING REQUESTED: NO

APPLICANT’S REQUEST

His election of benefits under the Survivor Benefit Plan (SBP) be changed. Specifically, he made a timely election for former spouse coverage.

APPLICANT’S CONTENTIONS

He was not aware of the one year time limit to submit a request to change his SBP election from spouse to former spouse coverage. His divorce was completed on 21 Jul 21, and his former spouse submitted a request for SBP benefits more than 2 years later on 30 Jul 23. As a consequence, his former spouse is not receiving SBP benefits. He cannot recall the exact date he submitted the divorce decree to the Defense Finance and Accounting Service (DFAS), but he knows it was submitted within the first few months after his divorce was completed. He spoke with a representative at DFAS after submitting the divorce decree, who informed him that all necessary updates would be updated. He believed that submitting the divorce decree alone would be sufficient. He accepts full blame for not understanding his responsibilities and wants SBP reinstated so his former spouse can get what she rightfully deserves.

The applicant’s complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a retired Air Force staff sergeant (E-5)

On 15 Jan 99, according to a Certificate of Marriage, provided by the applicant, he married his former spouse.

On 27 May 15, according to DD Form 2656, *Data for Payment of Retired Personnel*, the applicant elected Option B, *Coverage for Spouse and Child[ren]* based on full retired pay. His spouse was not present for the one-on-one briefing.

On 1 Dec 15, according to Special Order **Work-Product**, dated 7 Jan 15, the applicant retired from the Regular Air Force.

On 23 Aug 21, the applicant and his former spouse divorced. The divorce decree required the applicant to provide SBP coverage or an insurance policy of a sufficient amount for his former spouse. As of 23 Aug 22, [one year after divorce], the applicant had not filed a change to SBP

election under Title 10 United States Code, Section 1448(b)(3)(A)(iii) (10 U.S.C. § 1448(b)(3)(A)(iii)), nor had his former spouse filed a deemed election under 10 U.S.C. § 1450(f)(3)(C).

On 2 Feb 24, the Board sent the applicant the following standard forms, in order to establish whether there are persons with competing interests in the case or who should receive notice of the requested correction to the record: SBP Marital Status Affidavit (Former Spouse); SBP Marital Status Affidavit (Retiree); and SBP Release of Benefits Affidavit (Current Spouse).

On 5 Apr 24, the applicant returned the completed affidavits. Both the applicant and his former spouse indicated neither have remarried.

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

APPLICABLE AUTHORITY

10 U.S.C. § 1448(b)(3)(A)(iii). “An election to convert spouse coverage to former spouse coverage, “must be written, signed by the person making the election, and received by the Secretary concerned within one year after the date of the decree of divorce, dissolution, or annulment.”

10 U.S.C. § 1450(f) (3) (C). If a court has ordered a service member to elect former spouse SBP, then a former spouse can submit his or her own request to DFAS for former spouse SBP coverage. This is known as a “deemed election request.” There is a time limit: “An election may not be deemed to have been made ... unless the Secretary concerned receives a request from the former spouse of the person within one year of the date of the court order or filing involved.”

AIR FORCE EVALUATION

AFPC/DPFC (Casualty Division) recommends denying the application. 10 U.S.C., Chapter 73 Subchapter II 1447-1455, outlines the description of spouse and former spouse category of coverage. A person's eligibility to receive a spouse SBP annuity terminates upon divorce; however, there are two mechanisms for changing spouse to former spouse coverage, in the event of a divorce. The following actions must be completed with documents submitted to DFAS within the first year following the official divorce: (1) the retiree must file an election change using DD Form 2656-6, *Survivor Benefit Plan Election Change Certificate*, and DD Form 2656-1, *Survivor Benefit Plan (SBP) Election Statement for Former Spouse Coverage*, or (2) the former spouse will request a former spouse election be deemed, DD Form 2656-10, *Survivor Benefit Plan (SBP) Former Spouse Request for Deemed Election*. In the latter case, the former spouse must provide official legal documentation (legal ratified separation agreement) the member agreed, or the court ordered the member, to establish former spouse coverage. If neither the member nor the former spouse requests the election change during the one-year eligibility period, former spouse coverage may not be established thereafter. Additionally, in the event a member fails to notify DFAS-CL of the divorce and continues to pay SBP premiums afterwards, the former spouse is not eligible for annuity payments upon the member's death. Retiring service members are required to attend an in-person or virtual SBP briefing with an Air Force SBP counselor prior to retirement and are provided with the options and effects of the SBP to include retirement and SBP cost estimates. This briefing provides the member and spouse, if applicable, with an SBP Report on Individual Personnel (RIP) outlining the plan in detail.

Defense Enrollment Eligibility Reporting System (DEERS) records reflect the applicant, and his former spouse were married at the time of his 1 Dec 15 retirement. The applicant attended the SBP in-person briefing on 27 May 15 with the SBP counselor and was provided an SBP overview handout and cost estimates prior to the briefing (8 May 15). The SBP RIP provides the details of the plan, including actions required to change coverage from spouse to former spouse after retirement. Additionally, the applicant elected SBP spouse and child coverage based on full gross pay and premiums were deducted from his retired pay. The applicant and his former spouse divorced on 23 Aug 21, and the court provided two options for financial relief after the applicant's death: 1) SBP coverage, or 2) a life insurance policy. Therefore, the applicant and former spouse have another provision which would comply with the court order. The applicant did not notify DFAS to change the election from spouse to former spouse coverage and no deemed election was submitted on behalf of or by his former spouse. It is the service member's and former spouse's responsibility to make sure the necessary updates/changes are completed when a court ordered action is required. The information for changing spouse coverage to former spouse coverage is available on several public websites and publications, DFAS.mil, Air Force retiree website, Afterburner (annual summer and winter publications) and the DFAS retiree newsletter.

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 1 Jul 24 for comment (Exhibit D) but has received no response.

FINDINGS AND CONCLUSION

1. The application was timely filed.
2. The applicant exhausted all other available administrative remedies before applying to the Board.
3. After reviewing all Exhibits, the Board concludes the applicant is the victim of an error or injustice. While the Board notes the recommendation of AFPC/DPFC against correcting the record, the Board finds a preponderance of the evidence substantiates the applicant's contentions. Although the applicant failed to notify DFAS of his divorce and submit a change of election certificate within the one-year eligibility period, as required by law, he clearly indicates his voluntary intent to comply with the court order to establish SBP coverage for his former spouse. While there is no evidence of an Air Force error in this case, and in the absence of a competing claimant, the Board determined it appropriate to enforce the parties' court-ordered agreement to provide former spouse coverage. To deny the request would be to deny the former spouse an asset awarded to her by the court. 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. On 25 Aug 21, he submitted a timely and effective election for former spouse coverage under SBP, based on the previous full level of retired pay, naming FORMER SPOUSE as the eligible beneficiary.

b. Approval is contingent upon recovery of SBP premiums. If applicable, the monthly survivor benefit annuity will be applied to the premium debt until the total amount of premiums owed is recovered.

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-2023-03329 in Executive Session on 19 Nov 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 19 Sep 23.
- Exhibit B: Documentary Evidence, including relevant excerpts from official records.
- Exhibit C: Advisory, AFPC/DPFC, dated 14 Jun 24.
- Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 1 Jul 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.

10/29/2025

X Work-Product

Work-Product AFBCMR
Signed by: USAF