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UNITED STATES AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2023-03648

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COUNSEL: NONE

HEARING REQUESTED: NO

APPLICANT'S REQUEST

Her election of benefits under the Reserve Component Survivor Benefit Plan (RCSBP) be changed. Specifically, to decline participation in the RCSBP.

APPLICANT'S CONTENTIONS

RCSBP premiums are being unjustly deducted from her retirement pay. She retired from the Air National Guard on 30 Sep 21, but due to the Coronavirus waited until December to check on her retirement status, when she discovered that the Air Reserve Personnel Center (ARPC) made mistakes on her retirement paperwork. These mistakes caused a miscode that scheduled her retirement benefits to start on her 60th birthday, when she had an earlier window due to a six month deployment credit that allowed an earlier retirement date. Because of this, it would take at least 30 days to reprocess her retirement order with the correct date. The delayed processing at the Defense Finance and Accounting Service (DFAS) substantially delayed her retirement pay. DFAS also held up the transfer of her Thrift Savings Plan (TSP) military account into her civilian employee TSP account because TSP would not accept anything but a processed order from DFAS. She received her first retirement statement in Apr 22. On this statement, she noted Survivor Benefit Plan (SBP) and RCSBP being deducted from her retirement pay. On 16 May 23, DFAS honored her request to discontinue her SBP, yet to this day DFAS continues to unjustly collect from her retirement. She was misinformed and never given proper instruction or guidance regarding the cost and coverage details.

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 31 Jan 07, ARPC/DPPR sent the applicant the standard Notification of Eligibility (NOE) for retired pay (20-year letter) informing her that she 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.

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Controlled by: SAF/MRB
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Limited Dissemination Control: N/A
POC: SAF.MRBC.Workflow@us.af.mil

On 23 May 07, according to ARPC Form 123, *Reserve Component Survivor Benefit Plan Election Certificate*, the applicant elected Option C, *Immediate Annuity*, spouse only coverage based on full retired pay.

On 7 Mar 21, in preparation for commencement of retirement pay the applicant completed DD Form 2656, *Data for Payment of Retired Personnel*. The applicant selected Option G, *I elect not to participate in SBP*, with spouse concurrence.

On 29 Sep 21, according to Special Order **Work-Product** dated 2 Sep 21, the applicant was discharged from the ANG and transferred to the United States Air Force Reserve Retired List, effective 30 Sep 21.

On 16 May 23, DFAS notified the applicant her request to discontinue participation in SBP was approved, effective 15 Mar 23, and any overpaid premiums deducted after the date of discontinuation would be refunded. In addition, retirees remain responsible for any debt accrued due to unpaid premiums during the time in which the retiree had SBP or RCSBP coverage.

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(a)(2)(B). “Participants in the plan. The Plan applies to the following persons, who shall be participants in the Plan: ... Reserve-component annuity participants. A person who (i) is eligible to participate in the Plan under paragraph (1)(B), and (ii) is married or has a dependent child when he is notified under section 12731(d) of this title that he has completed the years of service required for eligibility for reserve component retired pay, unless the person elects (with his spouse's concurrence, if required under paragraph (3)) not to participate in the Plan before the end of the 90-day period beginning on the date on which he receives that notification.”

DoD 7000.14-R, *Financial Management Regulation*, Volume 7B, paragraph 540402. “A member electing to participate must designate an immediate election, a deferred election, or indicate a decision to delay the election until reaching retirement age. These are described as Options A, B, or C.”

DoD 7000.14-R, Volume 7B, Chapter 54, paragraph 540413. Reserve Component Premium: When a Reserve member participates in the RCSBP after first becoming eligible based on 20 qualifying years of satisfactory service, coverage for the member's survivors commence but premiums are not paid until the member first becomes entitled to retired pay (usually age 60). At that time, reductions in the member's retired pay are made that are specifically related only to RCSBP coverage that was already provided while the member awaited the requisite age of entitlement to retired pay. These reductions are the Reserve Component Premiums.

DoD 7000.14-R, Volume 7B, paragraph 540402. “A member electing to participate must designate an immediate election, a deferred election, or indicate a decision to delay the election until reaching retirement age. These are described as Options A, B, or C.”

DoD 7000.14-R, Volume 7B, paragraph 540701. “Elections filed during the 90-day period referred to in paragraph 540401 are generally irrevocable unless revoked before the expiration of the 90-day period.”

Section 643 of Public Law 117-263, also known as the National Defense Authorization Act for Fiscal Year 2023, established implementing guidance authorizing elections to participate, or discontinue participation in, the Uniformed Services SBP, including RCSBP, made by eligible members during the open season. The open season began 23 Dec 22 and ended at midnight Eastern Standard Time on 1 Jan 24. An eligible member is a member or former member of a Uniformed Service who, on 22 Dec 22, is either: a. entitled to retired pay, including members whose retired pay is fully offset or suspended, or b. would be entitled to retired pay under chapter 1223 of 10 U.S.C (or chapter 67 of 10 U.S.C., as in effect before 5 Oct 94), but for the fact of being under 60 years of age.

10 U.S.C. § 1448a states participants may elect to discontinue participation in SBP during qualifying periods. Previously paid premiums will not be refunded, and participation in the Plan may not be resumed except through a qualified election.

AIR FORCE EVALUATION

ARPC/DPTT (Transition Division) recommends denying the application. The SBP program 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, allows service members and retirees to ensure their designated beneficiaries continue to receive an annuity in place of their retired pay after their own 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 dependents in the member's record in the Military Personnel Data System. 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 20 Jul 06, 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 and Accounting Reporting System to reflect the 20 satisfactory years in record. The applicant signed ARPC Form 123, and elected Option C.

On 8 Dec 22, in preparation for commencement of retired pay the applicant completed DD Form 2656 in conjunction with their retirement application, and erroneously selected Option G for SBP in section 34. Instead, the applicant should have selected Option B in section 33 and left section 34 blank. Any military member that was under Option C for RCSBP is automatically enrolled in SBP when they reach retired pay age. DD Form 2656 is not an official election for RCSBP.

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 27 Mar 24, for comment (Exhibit D), and the applicant replied on 25 Apr 24. In her response, the applicant contends she deserves justice and reaffirms her desire to have her records corrected to show she declined RCSBP coverage at the time of her 20 year letter, and that she be reimbursed the funds that have been collected thus far by DFAS.

The applicant's complete response is at Exhibit E.

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. In this respect, the applicant signed ARPC Form 123 and made a valid election for RCSBP Option B (immediate spouse only coverage). RCSBP coverage for the member's beneficiaries commences when the member first becomes eligible based on 20 qualifying years of satisfactory service; however, premiums are not paid until the member first becomes entitled to retired pay (usually age 60). By law, any member participating in RCSBP under Option B or C is automatically enrolled in SBP upon receipt of retired pay. While the applicant elected to discontinue participation in SBP during the FY23 SBP Open Season, she still must pay premiums for the RCSBP coverage she elected and received. Previously paid premiums for coverage received under RCSBP are not refunded. 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-2023-03648 in Executive Session on 29 Aug 24:

Work-Product Panel Chair
Work-Product Panel Member
Work-Product Panel Member

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

- Exhibit A: Application, DD Form 149, w/atchs, dated 6 Nov 23.
- Exhibit B: Documentary Evidence, including relevant excerpts from official records.
- Exhibit C: Advisory, ARPC/DPTT, dated 20 Mar 24.
- Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 27 Mar 24.
- Exhibit E: Applicant's Response, w/atchs, dated 25 Apr 24.

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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.

9/18/2025

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Board Operations Manager, AFBCMR
Signed by: USAF

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