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UNITED STATES AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2024-02476

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COUNSEL: NONE

HEARING REQUESTED: NO

APPLICANT'S REQUEST

He be disenrolled from the Survivor Benefit Plan (SBP) and reimbursed all SBP premiums deducted from his retired pay.

APPLICANT'S CONTENTIONS

He was never properly counseled and did not fully understand the terms, costs, and coverage for SBP due to him suffering and continuing to suffer from a traumatic brain injury (TBI). He was shocked when he noticed the premiums, and this is the first bill he has received in four years. The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

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

On 8 May 18, the applicant signed *Certification of Survivor Benefit Plan (SBP) Briefing Report of Individual Personnel (RIP)*, certifying he had been briefed on and understood all provisions of SBP. An SBP counselor also signed, certifying the one-on-one briefing provided to the applicant.

On 8 May 18, according to DD Form 2656, *Data for Payment of Retired Personnel*, the applicant elected Option B, *I elect coverage for spouse and child(ren)* based on full retired pay.

On 28 May 18, according to Special Order [REDACTED] *Work-Product*, dated 2 Feb 18, the applicant was relieved from active duty and placed on the Temporary Disability Retired List (TDRL), effective 29 May 18, with a compensable percentage for physical disability of 90 percent.

On 28 Jan 20, the applicant and his former spouse divorced.

On 20 Feb 20, per Special Order [REDACTED] *Work-Product*, dated 31 Jan 20, the applicant was removed from TDRL and retired with a compensable percentage for physical disability of 80 percent.

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

AIR FORCE EVALUATION

AFPC/DPFC (Casualty Matters Division) recommends denying the application. All retiring service members are required to attend a mandatory SBP briefing with a certified Air Force SBP

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counselor prior to the member's retirement date. The SBP briefing provides the member information on the options and effects of SBP and is detailed on the SBP RIP provided to the member during and after the briefing. The member and spouse, if applicable, also receive individualized retired pay and SBP cost estimates obtained from the retired pay estimation calculator located on the *MyAirForceBenefits* website or calculated for those members retiring with a temporary or permanent disability. Once the member has decided on an SBP election, the DD Form 2656 is completed with spouse concurrence, if applicable. An SBP election, including changes in election coverage, can be made any time prior to the date of retirement. An election may not be arbitrarily terminated as long as the beneficiary remains eligible; however, Title 10 United States Code, Section 1448a (a), provides for a one year period beginning on the 25th month and ending on the 36th month following commencement of retired pay, during which SBP participants may choose to voluntarily discontinue their participation. If the retiree fails to exercise the disenrollment option during the one year eligibility period, the SBP election is considered permanent and is irrevocable as long as the beneficiary remains eligible.

Defense Enrollment Eligibility Reporting System (DEERS) records reflect the applicant and his former spouse were married at the time of his retirement on 29 May 18. Per the signed SBP RIP located in the applicant's record, he was briefed on the options and effects of SBP. The applicant completed and signed DD Form 2656 on 8 May 18, electing spouse and child(ren) coverage based on full gross pay. On 13 Jun 24, the applicant received assistance from the Casualty Assistance Representative, who reached out to the Defense Finance and Accounting Service (DFAS) to inquire about a notification of debt the member received for his SBP coverage. Per the DFAS phone log, the applicant was advised to submit the divorce decree from his former spouse, dated 28 Jan 20. Additionally, the applicant submitted DD Form 2656-6, *Survivor Benefit Plan Election Change Certificate*, which suspended spouse coverage while also adjusting overall coverage and premiums. The applicant continues to have child only coverage and is being charged premiums for that coverage. Per the applicant's retired pay account, he maintains a debt for the period he had an eligible spouse being covered by SBP from the date of retirement to date of divorce.

Elections are made voluntarily and become irrevocable once the member retires. The applicant has two options to pay for SBP premiums, (1) deduction from his disability pay by completing a DD Form 2891, *Authorization for Retired Serviceman's Family Protection Plan (RSFPP) and/or Survivor Benefit Plan (SBP) Costs Deduction*, or (2) sending direct remittance pay monthly to DFAS. The DFAS Direct Remittance Account Computation Audit Sheet, dated 17 Jul 24, reflects the applicant made two direct payments: (1) Sep 18, \$312.04 and (2) Jan 19, \$158.36. No other payments were made. Furthermore, per DD Form 149, *Application for Correction of Military Record Under the Provisions of Title 10, U.S. Code, Section 1552*, the applicant mentions his TBI as possible cause of improper counseling and lack of understanding. However, the applicant did attend the briefing which included the SBP in written form and provided to the member, with his signature acknowledging he understood. He had two and one half weeks before he retired to ask any additional or follow up questions. Additionally, per the applicant's medical records, the TBI is described as a mild form with symptoms being headaches, dizziness, etc., with no mention of lack of comprehension. In instances when a member is deemed incapable of making decisions for pay or financial reasons, it is reflected in the member's retirement orders with their next of kin designee appointed to make those decisions on behalf of the service member. However, no such notation is reflected on the applicant's retirement orders.

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 6 Nov 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 AFPC/DPFC and finds a preponderance of the evidence does not substantiate the applicant's contentions. There is no evidence the applicant was miscounseled or that his TBI impacted his ability to comprehend the options and effects of SBP provided in the one-on-one briefing to make a valid election. 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-2024-02476 in Executive Session on 27 Mar 25:

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 14 Jun 24.
- Exhibit B: Documentary Evidence, including relevant excerpts from official records.
- Exhibit C: Advisory, AFPC/DPFC, w/atchs, dated 4 Nov 24.
- Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 6 Nov 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.

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Board Operations Manager, AFBCMR

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