



Work-Product

UNITED STATES AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2024-03234

Work-Product

COUNSEL: NONE

HEARING REQUESTED: NO

APPLICANT'S REQUEST

His record be changed to show he made a timely election for former spouse coverage under the Survivor Benefit Plan (SBP).

APPLICANT'S CONTENTIONS

After contacting the Defense Finance and Accounting Service (DFAS) monthly for a year and receiving incorrect information, he was finally told about the one year limit to request former spouse SBP coverage.

In a timeline statement, he states he and his former spouse divorced on 4 Apr 22 and he agreed to keep her on the SBP. On 2 Aug 23, he contacted DFAS and was told to submit a 2023 SBP Open Season Letter of Intent (LOI) and DD Form 2656-6, *Survivor Benefit Plan Election Change Certificate*. He was then told he was required to submit a DD Form 2656-1, *Survivor Benefit Plan (SBP) Election Statement for Former Spouse Coverage*. On 2 Aug 24, he received notice from DFAS his SBP coverage was deleted. He was never made aware of the time limit. He was advised the only way to reinstate and change his SBP to former spouse was through the AFBCMR.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a retired Air Force master sergeant (E-7).

According to DD Form 2656, *Data for Payment of Retired Personnel*, dated 17 Oct 08, the applicant elected Option B (Coverage for Spouse and Child[ren]).

On 11 Nov 08, according to Special Order **Work-Product**, dated 7 Oct 08, the applicant retired from the Regular Air Force.

On 4 Apr 22, according to a divorce decree provided the applicant, he and his spouse divorced.

The applicant provided the signed and notarized SBP Marital Status Affidavit dated 6 Jan 24 indicating he is not currently married. His former spouse also provided the SBP Former Spouse Marital Status Affidavit signed and notarized on 14 Jan 25 indicating she is not currently married.

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Controlled by: SAF/MRB

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Limited Dissemination Control: N/A

POC: SAF.MRBC.Workflow@us.af.mil

The applicant provides his Retiree Account Statement (RAS) dated 2 Aug 24 indicating he has no SBP election on his account.

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

APPLICABLE AUTHORITY

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."

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."

DoD 7000.14-R, Volume 7B, paragraph 5408. "The Government does not subsidize the cost of providing RCSBP coverage under the immediate or deferred annuity option, but the members and beneficiaries who potentially will benefit from the coverage share the cost. The cost to the retiree, known as the Reserve Component Premium, is in the form of an additional deduction from his or her retired pay beyond the Standard Premium. The RCSBP, unlike SBP, requires a reduction in the survivor annuity. That reduction, known as the Survivor's Annuity Premium Deduction, begins when the survivor begins to receive an annuity. The Reserve Component Premium and the Survivor's Annuity Premium Deduction increase at the same time and by the same percentage that retired pay increases by cost-of-living adjustments."

AIR FORCE EVALUATION

AFPC/DPFC (Casualty Matters Division) recommends denying the application. There is no evidence of an error or injustice. There is no basis in law to grant the applicant's request.

The applicant was medically retired on 11 Nov 08. He received his mandatory SBP counseling on 17 Oct 08. At the time, he was married and elected spouse coverage. He signed and was provided a copy of the SBP counseling, which included that any change from spouse to former spouse coverage was required to be submitted within one year of the divorce. It further stated the applicant must submit a DD Form 2656-1 to DFAS with a copy of the divorce decree or his former spouse could request a deemed SBP election if SBP was court ordered or in a written agreement. The DD Form 2656-1 or the deemed election must be submitted to DFAS within the first year following divorce or former spouse coverage could not be established. The applicant and his spouse divorced in Apr 22. Per the divorce decree, SBP was not awarded to the applicant's former spouse and there is no record of a DD 2656-1 or deemed election submitted to DFAS for change of election from spouse to former spouse.

On 2 Aug 23, the applicant contacted DFAS to change his election from spouse to former spouse. The applicant indicates DFAS advised him to submit an SBP Open Season Election form, which he submitted to DFAS on 2 Aug 23. He also completed a DD Form 2656-6 suspending spouse coverage dated 2 Aug 23. On 15 Aug 23, DFAS advised the applicant he was ineligible to change coverage due to already being enrolled in the SBP. On 18 Sep 23, the applicant and his former spouse signed a DD Form 2656-1 to elect former spouse coverage. On 23 Feb 23, DFAS responded to the submission of the DD Form 2656-1 by requesting a copy of the divorce decree. On 2 Aug 24, DFAS informed the applicant his account was updated to reflect he had no SBP election. His RAS shows he has no eligible beneficiaries.

The records from DFAS and supporting documents provided by the applicant reflect neither he nor his former spouse submitted the required paperwork to convert the SBP election from spouse to former spouse. According to 10 U.S.C. § 1448(b)(3)(A)(iii), the conversion must occur within one year of the divorce, either through the retiree filing an election or the former spouse submitting a requested for a deemed election. Failure to complete this process within the statutory timeline precludes the establishment of former spouse coverage. To give the applicant another opportunity outside of the law not given to others with similar circumstances would not be equitable.

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 28 Jul 25 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. In this respect, the Board finds the applicant has provided sufficient evidence to conclude his intent to convert his spouse coverage to former spouse coverage; however, it appears the applicant was misinformed or miscounseled regarding the procedures. Moreover, the Board notes the applicant and his former spouse have provided the SBP Affidavits to confirm there are no competing interests for the SBP coverage. Therefore, in the interest of justice, 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 5 Apr 22, he submitted a DD Form 2656-1, *Survivor Benefit Plan (SBP) Election Statement for Former Spouse Coverage*, making a timely and effective election for former spouse coverage under the Survivor Benefit Plan, based on the previous reduced level of retired pay, naming his FORMER SPOUSE as the eligible beneficiary.

b. Approval is contingent upon recovery of Survivor Benefit Plan 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-2024-03234 in Executive Session on 6 Nov 25:

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 8 Sep 24.
- Exhibit B: Documentary Evidence, including relevant excerpts from official records.
- Exhibit C: Advisory, AFPC/DPFC, w/atchs, dated 25 Jul 25.
- Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 28 Jul 25.

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.

12/16/2025

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Board Operations Manager, AFBCMR

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