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UNITED STATES AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2024-03256

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COUNSEL: NONE

HEARING REQUESTED: YES

APPLICANT'S REQUEST

He be allowed to elect spouse coverage under the Fiscal Year 2023 National Defense Authorization Act (NDAA) Survivor Benefit Plan (SBP) Open Season Enrollment.

APPLICANT'S CONTENTIONS

On 24 Dec 23, he submitted his request to the Defense Finance and Accounting Service (DFAS) for SBP coverage under the open enrollment period. On 5 Mar 24, DFAS advised he was not allowed to change his existing coverage. In a telephone conversation on 18 Mar 24, DFAS advised his SBP status was "Suspended, Child Only." However, the SBP coverage for his son, ended on his 18th birthday in 2023. Premiums from his retired pay were stopped at that time.

He was not participating in the SBP because he had no coverage and was not paying premiums. The 2023 SBP Open Enrollment request was for new SBP coverage for his spouse. An open season for any insurance is normally defined as the only period one can enroll in or change coverage without a qualifying life event. His Retiree Account Statement (RAS) shows he has no SBP election reflected on his account for the past 21 years.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

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

On 9 Sep 80, the applicant and his former spouse divorced.

On 19 Aug 88, according to a certificate of marriage, provided by the applicant, he married his current spouse.

On 1 Feb 93, according to Special Order **Work-Product** dated 29 Aug 92, the applicant retired from the Regular Air Force.

On 23 Dec 23, the applicant submitted his request for the 2023 SBP Open Enrollment Election for spouse coverage.

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On 5 Mar 24, the DFAS informed the applicant he was not eligible to enroll in SBP coverage during the open season. The 2023 NDAA SBP Open Season does not allow for changes to existing SBP coverage. Instead, the 2023 Open Season allows only for enrollment by those who were not enrolled in the SBP as of 22 Dec 22. He made a valid election at retirement for child only coverage.

In Apr 24, the applicant requested an appeal of the DFAS decision. His RAS indicates “No SBP Election is Reflected on Your Account.” The DFAS Customer Care Center informed him his SBP status was “suspended” child only. He was never notified of this after the premiums for the coverage stopped in 2003. He is now 74 years old with no chance of having more children. The term life insurance he purchased after he retired will expire soon, the SBP Open Season enrollment for his wife is the only opportunity to ensure her financial security after he is gone. It would also provide the DFAS/Treasury with a 30 year one time SBP premium buy in cost, resulting in a win for all concerned.

In a letter dated 16 Apr 24, DFAS provided the applicant with a DD Form 149, *Application for Correction of Military Record*, and advised the applicant he could submit his appeal to the AFBCMR.

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

APPLICABLE AUTHORITY

Public Law (PL) 117-263 established an open enrollment period beginning 23 Dec 22 and ending 1 Jan 24. The open enrollment period was for retired service members who want to enroll and are not participating in SBP or want to disenroll if they are participating. The open enrollment period did not allow members to change a category of coverage when they are participating with a suspended coverage. Although the coverage is suspended, members are still considered to be participating.

AIR FORCE EVALUATION

AFPC/DPFFF (Casualty Matters) recommends denying the application. There is no evidence of an error or injustice and there is no basis in law to approve the request.

The Defense Eligibility Enrollment Reporting System (DEERS) reflects the applicant had dependent children and a spouse (current spouse) at the date of his retirement on 1 Jul 93. On 12 May 93, the applicant elected child only coverage and his spouse concurred with the election on 30 Jun 93. The last child lost eligibility in 2007 and the SBP went into child only suspended coverage. The category of child only coverage elected remains suspended “participating” status in the event a member acquires another eligible beneficiary to fit the category.

On 28 Mar 24, the applicant submitted a DD Form 2656-6, *SBP Election Change Certificate*, in an attempt to change his coverage from suspended coverage to spouse coverage. However, on 16 May 24, DFAS denied his request and advised he could submit a DD Form 149 to the AFBCMR. This is standard process by DFAS to provide due process under the law. Members already enrolled in SBP were not permitted to change their coverage category during the 2023 SBP Open Enrollment period. In accordance with PL-108, for the period of 1 Oct 05 to 30 Sep 06, an open enrollment opportunity with change to a category of coverage was allowed. However, there are no records indicating the applicant inquired or submitted documents to enroll at that time.

Congressionally mandated SBP open seasons do not necessarily allow changes that meet the needs of all members. These are rare moments of specific opportunities. The Department of Defense (DoD) does not have the authority to modify or change the law governing SBP elections. When a service member retires, they bear the responsibility of making an SBP election that best suits their family's future needs. SBP elections are based on specific coverage categories and cannot be arbitrarily changed. While some past open seasons have permitted changes in coverage categories, the provisions of this particular open season did not allow for such changes. Even when a member's SBP category is in a suspended status, they are considered a participant in the program and changes in coverage were not permitted in this law.

To afford the applicant an additional opportunity that is contrary to the law and not available to others similarly situated would be unfair and an injustice. The integrity of the SBP program relies on the consistent application of its policies, ensuring equitable treatment for all participants.

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 7 Mar 25 for comment (Exhibit D). In a response dated 2 Apr 25, the applicant states at the time of his retirement, he had a personal life insurance policy and it did not make economic sense to elect spouse and child SBP coverage, especially since he had no civilian job prospects. Further, during the 2005-2006 open season, he was laid off from his job, had to accept another job at a lower salary and the retroactive premium buy-in was more than \$15,000.

As for the suspended SBP participation, he never received any notification until he contacted DFAS. His RAS and DFAS records have consistently shown he has no SBP election on his account. It is illogical at age 75, he would desire to acquire another son or daughter. For the stated reasons, he believes he is eligible to submit an open enrollment election request for spouse only coverage. For the last 20 years, he has saved to fund for the 30 years of retroactive premiums to provide his wife with the financial security she deserves should the Board grant relief.

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 AFPC/DPFC and finds a preponderance of the evidence does not substantiate the applicant's contentions. Based on the criteria established under PL 117-263, 2023 Open Enrollment SBP Season, the applicant is not eligible to elect SBP spouse coverage since he declined spouse coverage on 12 May 93. While the Board understands the applicant's desire to provide the benefit for his spouse, the Board does not find it in the interest of justice to grant the applicant an additional opportunity not available to similarly situated retired service members. Therefore, the Board recommends against correcting the applicant's records.

4. The applicant has not shown a personal appearance, with or without counsel, would materially add to the Board's understanding of the issues involved.

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-2024-03256 in Executive Session on 15 Aug 25:

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Panel Chair

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Panel Member

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Panel Member

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

Exhibit A: Application, DD Form 149, w/atchs, dated 27 Aug 24.

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

Exhibit C: Advisory, AFPC/DPFC, w/atchs, dated 27 Feb 25.

Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 7 Mar 25.

Exhibit E: Applicant's Response, dated 2 Apr 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.

9/5/2025

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Board Operations Manager, AFBCMR

Signed by: USAF

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