



Work-Product

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

### RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2024-03616

Work-Product

COUNSEL: NONE

HEARING REQUESTED: NO

### APPLICANT'S REQUEST

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

### APPLICANT'S CONTENTIONS

He retired on 31 Oct 98 and elected children only SBP coverage because he was divorced and not married at the time. He remarried on 6 Sep 01. He wanted to add his new spouse to his SBP but was told by the military personnel and finance offices at Osan Air Base, Korea he was not eligible to make any changes to his SBP. He recently learned that he could have added his wife at the time. He also did not know he was able to rectify his SBP during the past SBP open seasons based on what he was told in 2001. Because open seasons are few and far between, there is little chance he will have another opportunity to make an SBP election change. He requests special consideration to add his wife. He would pay any back pay in premiums so there would be no financial loss to the Air Force. He feels terrible he has let his wife down and wants to ensure she is taken care of when he dies.

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 Retired Pay*, dated 18 Jun 98, the applicant elected Option C (Coverage for Child[ren] Only). The applicant was not married at the time.

On 1 Nov 98, according to Special Order **Work-Product** dated 6 Jun 98, the applicant retired from the Regular Air Force.

According to a certificate of marriage, provided by the applicant, he married his current spouse on 6 Sep 01.

**AFBCMR Docket Number BC-2024-03616**

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Controlled by: SAF/MRB

Attorney-Client

Limited Dissemination Control: N/A

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

On 17 Feb 25, the applicant returned the SBP Marital Status Affidavit indicating he is married.

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)(5)(B), Participation by Person Marrying After Retirement. A person who is not married but who later marries or acquires a dependent child may elect to participate in the Plan. Such an election must be written, signed by the person making the election, and received by the Secretary concerned within one year after the date on which that person marries or acquires the dependent child.

## AIR FORCE EVALUATION

AFPC/DPFC recommends denying the application. There is no error or injustice, nor any basis in law to approve the request.

The applicant received his mandatory pre-retirement SBP briefing on 18 Jun 98. At the time, he was unmarried and elected "child only" coverage as documented on his DD Form 2656. He retired on 1 Nov 98 and married his current spouse on 6 Sep 01. He updated his marital status in the Defense Enrollment Eligibility Reporting System (DEERS). However, there is no evidence he submitted the required documentation to the Defense Finance and Accounting Service (DFAS) to establish spouse SBP coverage within the one year statutory window following the date of marriage.

In his application to the AFBCMR, he reported he visited the military personnel and finance office at Osan Air Base in 2001 to inquire about adding his spouse to the SBP election. However, once a service member retires, their pay and SBP transactions are serviced by DFAS-CL and not the local active duty personnel and finance office. Personnel at the installation level do not have the authority or procedural expertise regarding post-retirement SBP modifications.

The first official record of the applicant contacting DFAS-CL to inquire about adding spouse coverage was not until 23 Aug 24. At that time, DFAS advised him, he was required to submit a DD Form 2656-6, *Survivor Benefit Plan Election Change Certificate*, along with a copy of his marriage certificate within one year of marriage to establish post-retirement spouse coverage as outlined in 10 U.S.C. § 1448(a)(5)(B).

There have also been multiple SBP open season enrollment opportunities since his marriage in 2001. There is no record of the applicant submitting an enrollment request or contacting DFAS to take advantage of either open enrollment opportunity during the 2005 or 2023 open seasons. Furthermore, the applicant was employed post-retirement as a government civilian (GS employee). His status as a GS employee provides access to a separate SBP like annuity plan under the Federal

Employees Retirement System (FERS) or Civil Service Retirement System (CSRS). Thus, he may have had additional opportunities to elect annuity coverage for his spouse under this program.

The SBP is governed by federal statute, and its post-retirement election rules are enforced uniformly to maintain program integrity and financial solvency. While the applicant may have had the intent to add spouse coverage, intent alone does not satisfy the legal requirements for enrollment. His failure to act within the required timeline, coupled with two missed open season opportunities, does not meet the threshold for correction. Granting an exception in this case would undermine the legal framework of the SBP and create an inequitable precedent.

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 May 25, for comment (Exhibit D), and the applicant replied on 9 May 25. In his response, the applicant contended he did not know in 2001, and was not told, he should direct questions about SBP to DFAS-CL. Had he known or been redirected, he certainly would have done that and would not be in this predicament today. He ignorantly accepted the information he was given and acted on the incorrect information, to include not acting on the two subsequent open seasons. He also did not opt for the SBP like annuity plan under the FERS when he retired as it would not be that much money because of the relative short employment tenure.

He is not trying to undermine the legal framework, integrity or financial solvency of the program but is asking to do now what he could have done on three separate prior occasions. It is highly unlikely he will live until the next open season and he needs to ensure his wife is taken care of financially and not be deprived because of his inactions. He is willing to pay all applicable retroactive premiums owed. The applicant's complete response is at Exhibit E.

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### **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. The applicant was required by law to elect SBP spouse coverage within one year of his marriage. While the applicant contends he was misinformed in 2001 by the military personnel and finance offices regarding enrolling his spouse in the SBP, the Board finds his contention insufficient to warrant relief. In this respect, the Board notes DFAS, and not military personnel and finance offices, are

responsible for management of the SBP upon a service member's retirement. Furthermore, the applicant did not elect SBP during the two prior open seasons and did not contact DFAS about enrolling his spouse in the SBP until 2024. The applicant now requests special consideration so his spouse may be provided with the benefit upon his death; however, the Board does not find it in the interest of justice to provide the applicant with an additional opportunity to make an SBP election that is not afforded to similarly situated retired service members. 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-2024-03616 in Executive Session on 4 Sep 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 19 Sep 24
- Exhibit B: Documentary Evidence, including relevant excerpts from official records.
- Exhibit C: Advisory, AFPC/DPFC, dated 15 Apr 25.
- Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 1 May 25.
- Exhibit E: Applicant's Response, dated 9 May 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.

9/18/2025