



Work-Product

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

### RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2024-03904

Work-Product

COUNSEL: NONE

HEARING REQUESTED: YES

### APPLICANT'S REQUEST

His election under the Survivor Benefit Plan (SBP) be changed from spouse only coverage to child only coverage.

### APPLICANT'S CONTENTIONS

His spouse passed away on 9 May 22. He informed the Defense Finance Accounting Service (DFAS) that at the time of his retirement he was not counseled about SBP coverage for his children.

In May 24, during the open enrollment season, he made an inquiry to DFAS to file the election for change of coverage. On 13 Jun 24, he received a letter from DFAS stating his request was denied. He was advised to file a petition with the AFBCMR.

His daughter is an incapable adult with autism. The SBP could be used for her care after he passes and her siblings would not be burdened with taking care of her.

The applicant's complete submission is at Exhibit A.

### STATEMENT OF FACTS

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

On 30 Aug 97, according to a certificate of marriage, provided by the applicant, he married his spouse.

On 5 Jun 98, according to DD Form 2656, *Data for Retired Pay*, dated 5 Jun 98, the applicant elected Option A (Spouse Coverage for Spouse Only). Two children with dates of birth in Attorne... and Attorne... were listed. However, his DD 2656 indicated he did not have dependent children.

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

On 9 May 22, according to a certificate of death, provided by the applicant, the applicant's spouse passed away.

On 26 Oct 22, the Army Benefits Center informed the applicant his daughter was approved to remain an eligible family member as a Child Incapable of Self-Support on his federal benefits, to

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include the Federal Employees Health Benefits (FEHB), Federal Employees Dental and Vision Insurance (FEDVIP) and Federal Employees' Group Life Insurance (FEGLI).

On 3 Jan 23, AFPC informed the applicant his request that his daughter remain a claimed dependent as an incapacitated child over age 21 was approved. The applicant was advised to take the letter to the local Defense Eligibility Enrollment Reporting System (DEERS) office for issuance of the identification card.

In a letter dated 13 Jun 24, DFAS informed the applicant that at the time of his retirement, he elected spouse only coverage and children were excluded for SBP. Therefore, they were unable to add a child at this time.

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

## APPLICABLE AUTHORITY

10 U.S.C. § 1448(a)(2)(A). Standard Annuity Participants. A person who is eligible to participate in the SBP and who is married or has a dependent child when he becomes entitled to retired pay, elects not to participate in the SBP before the first day for which he is eligible for retired pay. The election is irrevocable.

## AIR FORCE EVALUATION

AFPC/DPFC recommends denial. There is no evidence of an Air Force error or injustice. Nor is there any basis in law to approve the request.

The applicant's request to add his post-retirement child to SBP coverage should not be granted due to his initial election to decline child coverage and the absence of any provisions under current law to allow for retroactive changes. There is no injustice to reasonably provide an additional opportunity not afforded to other service members with similar circumstances.

Specifically, 10 U.S.C. § 1448 outlines the rule for dependent child coverage. If a service member has eligible dependent children at the time of retirement but chooses not to include them in the SBP election, neither those children, nor any future children will be eligible for SBP coverage. However, if the service member does not have dependent children at the time of retirement, they may elect to cover a new child within one year of gaining the child. For children who are incapable of self-support due to disability, coverage may extend for the child's lifetime, provided eligibility criteria is met and coverage was elected at retirement.

The applicant received his mandatory SBP briefing on 5 Jun 98 and completed DD Form 2656 electing spouse only coverage at the full gross amount. The form reflects he erroneously checked the box indicating he did not have dependent children at the time. However, he did have two dependent children at the time of his retirement, ages 16 and 19. The applicant disqualified both his existing children and any future children from SBP coverage.

After retirement, the applicant had another child in **Attome...**, whom he states was diagnosed with autism at age 4. However, no medical records were provided to substantiate the diagnosis prior to 2024. A medical provider's statement dated 7 Feb 24 and a medical note dated 2 Jan 24 indicates the child had autism and was unable to live independently. The applicant relocated his daughter to **Attorney-Cli...** in 2022 to reside with him. She previously resided with his wife in **Attorney-Cli...** until her

passing. Unfortunately, the applicant is ineligible to add his daughter to SBP coverage due his initial SBP election for spouse only coverage and there is no open season for enrollment currently in effect. There were previous open seasons, Public Law (PL) 105-261 from Mar 99 to Feb 00 and PL 113-291, 2015 to 2016 for establishment for annuities to be paid to a Special Needs Trust (SNT) where the coverage could have been opted in to; however, there is no documented evidence the applicant elected coverage for his child. While the applicant's circumstances are compelling, his initial election to decline child coverage at retirement and the lack of action within the specified timeframes have no legal pathway to add his daughter to SBP coverage under current laws and guidelines.

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 24 Jan 25, 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. Per 10 U.S.C. § 1448, the applicant is ineligible to elect child coverage at this time due to his declination of child coverage on his retirement. The applicant also did not request SBP child coverage during two prior SBP Open Seasons. While the Board empathizes with the applicant's circumstances, granting the applicant relief would result in an injustice to similarly situated retired service members whose requests for SBP enrollment were denied due to their failure to make a timely election. 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-2024-03904 in Executive Session on 11 Sep 25:

Work-Product [REDACTED], Panel Chair  
 Work-Product [REDACTED], Panel Member  
 Work-Product [REDACTED], Panel Member

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

- Exhibit A: Application, DD Form 149, w/atchs, dated 25 Oct 24.
- Exhibit B: Documentary Evidence, including relevant excerpts from official records.
- Exhibit C: Advisory, AFPC/DPFC, w/atchs, dated 24 Jan 25.
- Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 24 Jan 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.

10/28/2025

Board Operations Manager, AFBCMR  
Signed by: USAF