ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [redacted]

BOARD DATE: 13 May 2025

DOCKET NUMBER: AR20240000284

APPLICANT REQUESTS: correction of his records to show he declined participation in Survivors Benefit Plan (SBP)

APPLICANT'S SUPPORTING DOCUMENT(S) CONSIDERED BY THE BOARD:
DD Form 149 (Application for Correction of Military Record)

FACTS:

1. The applicant states, in pertinent part, he did not complete a form on SBP, during his medical board process; however he was still auto enrolled in the program. When he called Defense Finance Accounting Service (DFAS), they informed him there was not an initial SBP form on file. The enrollment was done in error and they instructed him to contact the Board to have his SBP cancelled.

2. The applicant's service record shows and DFAS provided:

- On 22 February 2010, he enlisted in the Army National Guard (ARNG)
- On 18 June 2010, the applicant and his spouse were married
- On 30 January 2023, he was found physically unfit for duty; the board recommended a rating of 30 percent and that he be permanently retired due to disability; the applicant concurred with the recommendation and waived a formal hearing of his case
- On 28 February 2023, the applicant was informed he had been found physically unfit for duty and would be permanently retired
- On 28 February 2023, orders were published placing him on the retired list, due to permanent disability, effective 30 April 2023
- On 29 April 2023, he was honorably transferred from the ARNG to the Retired Reserve
- On 20 June 2023, an SBP Automatic Coverage Fact Sheet was completed by the applicant
- On 8 November 2023, an SBP Termination Request was completed by the applicant and signed by his spouse

- On 13 November 2023, DFAS sent the applicant a letter stating they received his request to discontinue SBP; however his request was not valid as it was outside of the 25-36 month window for a regular discontinuation
- On 23 March 2024, DFAS sent the applicant a letter stating they received his correspondence but could not take action; they requested a copy of his marriage certificate so his SBP could be updated from auto status

3. On 29 April 2025, DFAS responded to a request for information stating the applicant has automatic SBP coverage effective 30 April 2023.

BOARD DISCUSSION:

After reviewing the application and all supporting documents, the Board determined relief was warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. Based upon the available documentation and the evidence demonstrating the applicant was not properly trained concerning required timelines for submission at the time of his medical retirement, the Board concluded there was sufficient evidence of an injustice warranting a correction to the applicants record showing he made a timely submission to decline SBP coverage at the time of his medical retirement.

BOARD VOTE:

Mbr 1	Mbr 2	Mbr 3	
:XXX	:XXX	:XXX	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:	:	:	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

The Board determined the evidence presented is sufficient to warrant a recommendation for relief. As a result, the Board recommends that all Department of Army records of the individual concerned be corrected by showing the applicant made a timely submission, with appropriate spousal concurrence, to decline SBP coverage at the time of his medical retirement and that the submission was received and approved by the appropriate agency.

//SIGNED//

X

CHAIRPERSON

I certify that herein is recorded the true and complete record of the proceedings of the Army Board for Correction of Military Records in this case.

REFERENCES:

1. Public Law 92-425, the Survivor Benefit Plan (SBP), enacted 21 September 1972, provided that military members on active duty could elect to have their retired pay reduced to provide for an annuity after death to surviving dependents. However, surviving children are only entitled to SBP payments until reaching age 22 in certain cases. Changes in SBP options are not authorized except in specific instances, or authorized by law.

2. Public Law 105-85, enacted 18 November 1997, established the option to terminate Survivor Benefit Plan (SBP) participation. Retirees have a 1-year period beginning on the second anniversary of the date on which their retired pay started to withdraw from SBP. The spouse's concurrence is required. No premiums will be refunded to those who opt to disenroll. The effective date of termination is the first day of the first calendar month following the month in which the election is received by the Secretary concerned.

3. Title 10, U.S. Code, section 1448, requires notice to a spouse if a member elected not to participate in the SBP. The statute also provided for automatic enrollment for spouse coverage at the full base amount unless a member affirmatively declined to participate in the SBP prior to receiving retired pay.

4. Department of Defense Financial Management Regulation, Volume 7b, states, elections in writing signed by the member, which contain all information necessary for declining coverage, are acceptable. Spousal concurrence is required when the member elects to decline coverage. The Secretary concerned may revoke an election when

necessary to correct an administrative error. Once participation is discontinued under this provision, no benefits may be paid in conjunction with the members’ previous participation. No refund of any premiums properly collected will be made.

//NOTHING FOLLOWS//