

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 12 August 2025

DOCKET NUMBER: AR20240004992

APPLICANT REQUESTS: in effect, reconsideration of, her previous request that the records of the former deceased service member (SM), be corrected to show he enrolled in the Reserve Component Survivor's Benefit Program (RCSBP) for spouse coverage.

APPLICANT'S SUPPORTING DOCUMENT(S) CONSIDERED BY THE BOARD:

- DD Form 149 (Application for Correction of Military Record)
- Applicant Letter
- Marriage License, 27 August 1977
- Death Certificate, 24 August 2001
- Congressional Letter and Response

FACTS:

1. Incorporated herein by reference are military records which were summarized in the previous consideration of the applicant's case by the Army Board for Correction of Military Records (ABCMR) in Docket Number AR2001064333 on 24 January 2002.
2. The applicant states in effect, that the former deceased SM, was not aware that he needed to complete the RCSBP election until he reached age 60. She, as his spouse, never waived any claim to RCSBP benefits. The applicant states as new evidence the former SM never received the 15-year letter, and he did not receive any guidance on the requirement to enroll in RCSBP within 90 days. The applicant discusses certified mail processes. The former SM was not a man who ignored important actions or his responsibilities.
  - a. The applicant did not learn of any administrative impropriety in the former SM's RCSBP until after his death in 2001. By that time, the law had changed, making automatic election to enroll spouses in the RCSBP the automatic default.
  - b. Absent relief from the Board, the applicant finds herself the victim a faulty USPS delivery process, or of poor timing, someone who slipped through the cracks of legislative changes aimed at preventing situations just like this-where a widow of a

qualifying service member is denied SBP solely on the basis of an administrative oversight, innocent error, mistake, misunderstanding, lack of information, or similar reason. She respectfully requests that she be enrolled in RCSBP as a spouse.

3. The applicant provides, and the former SM's service records show:

- He was appointed as a commissioned officer in the U.S. Army on 12 June 1975
- He married the applicant on 27 August 1977
- Orders 94-202-004, 25 July 1994 show the former SM was assigned to the Retired Reserve
- His Notification of Eligibility for Retired Pay at Age 60 (Selected Reserve 15-year letter), 14 November 1994 shows he had requested transfer to the retired reserve, and had 90 calendar days to make and submit an RCSBP election. If he did not submit an election within 90 calendar days, he will not be entitled to elect SBP coverage until he reached age 60 and apply for retired pay
- The former SM died on 24 August 2001
- The Transition and Separations Branch letter to the applicant, 12 September 2001 shows the SBP Election Certificate was returned unopened. A second opportunity to apply for SBP annuity during the Army's open season enrollment was during 17 May 1998 to 16 May 1999 and the former SM failed to make an SBP election during the open season. His last opportunity would have been upon reaching his 60th birthdate when he applied for his retired pay

4. In a previous case AR2001064333 on 24 January 2002, the Board determined:

- a. The former SM's failure to accept his 15-year letter and subsequent failure to make an RCSBP election resulted in the automatic deferral of his election opportunity to when he attained age 60 when he would have been eligible to enroll in the standard SBP. At the time, spousal concurrence was not required for this automatic deferral. Unfortunately, the former SM died prior to reaching age 60.
- b. The applicant has failed to submit sufficient relevant evidence to demonstrate the existence of probable error or injustice.

5. In a Defense Finance Accounting Service (DFAS) email, 20 April 2025, it shows they did not have any documents for the deceased former SM in their system regarding RCSBP/SBP.

BOARD DISCUSSION:

After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief is warranted. The Board carefully considered the SM's record of service, documents submitted in support of the petition, and executed a comprehensive review based on public law, policy, and regulation. Upon review of the applicant's petition and available military records, the Board determined the SM was transferred to the Retired Reserve on 25 July 1994 and his Notification of Eligibility for Retired Pay shows on 14 November 1994 he requested transfer to the retired reserve and had 90 calendar days to make and submit an RCSBP election. If he did not submit an election within 90 calendar days, he would not be entitled to elect SBP coverage until he reached age 60. ABCMR Docket Number AR2001064333 documented that the Selected Reserve 15 Year Letter sent by registered mail in November 1994 was returned to the U.S. Army Reserve Personnel Center unopened. The SM died on 24 August 2001 at the age of 48. The board determined that the SM was not properly notified of the requirement to enroll in the RCSBP and the denial of benefits to his surviving spouse is an injustice. Therefore, the Board determined that if the SM had been properly notified by the U.S. Army Reserve Personnel Center, he would have been reasonably expected to elect an RCSBP coverage in November 1994 and his widow is eligible for benefits beginning upon his death on 24 August 2001.

BOARD VOTE:

Mbr 1	Mbr 2	Mbr 3	
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XXX	XXX	XXX	GRANT FULL RELIEF
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:	:	:	GRANT FORMAL HEARING
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:	:	:	DENY APPLICATION
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BOARD DETERMINATION/RECOMMENDATION:

The Board determined that the evidence presented was sufficient to warrant amendment of the ABCMR's decision in Docket Number AR2001064333. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by showing the applicant timely elected "Spouse Only" coverage as required by the relevant statutory provision and the request was received and processed by the appropriate office in a timely manner to ensure payment of benefits to his surviving spouse effective 24 August 2001.

8/22/2025

X //Signed//

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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 95-397, the RCSBP, enacted 30 September 1978, provided a way for those who had qualified for reserve retirement but were not yet age 60 to provide an annuity for their survivors should they die before reaching age 60. Three options are available: (A) elect to decline enrollment and choose at age 60 whether to start SBP participation; (B) elect that a beneficiary receive an annuity if they die before age 60 but delay payment of it until the date of the member's 60th birthday; (C) elect that a beneficiary receive an annuity immediately upon their death if before age 60. A member must make the election within 90 days of receiving the notification of eligibility to receive retired pay at age 60 or else wait until he/she applies for retired pay and elect to participate in the standard SBP.
2. Public Law 105-261, enacted 17 October 1998, established an Open Season to be conducted 1 March 1999 - 29 February 2000. It required that enrollees live two years from the effective date of election for beneficiaries to be eligible for an annuity.
3. Public Law 106-398, enacted 30 October 2000, required written spousal consent for a Reserve service member to be able to delay making an RCSBP election until age 60. The law is applicable to cases where 20-year letters have been made after 1 January 2001.

//NOTHING FOLLOWS//