

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 2 September 2025

DOCKET NUMBER: AR20240006279

APPLICANT REQUESTS: Survivor's Benefit Plan (SBP) disenrollment.

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

- DD Form 149 (Application for Correction of Military Record)
- Self-Authored Letter, 22 June 2024
- Informal Physical Evaluation Board (PEB) Proceedings 7 February 2023
- DD Form 214 (Certificate of Release or Discharge from Active Duty), 19 March 2023
- SBP Pay Worksheet, 19 March 2023
- Orders 0005462766, 25 July 2023
- SBP and Reserve Component SBP (RCSBP), 1 December 2023
- Defense Finance Accounting Service (DFAS) Cover Sheet, 22 June 2024

FACTS:

1. The applicant did not file within the 3-year time frame provided in Title 10, U.S. Code, section 1552(b); however, the Army Board for Correction of Military Records (ABCMR) conducted a substantive review of this case and determined it is in the interest of justice to excuse the applicant's failure to timely file.
2. The applicant states he was automatically enrolled in SBP. He has been trying to disenroll since April 2023. He has been going back and forth with a pay technician who told him to complete DD Form 149. He never wanted to be enrolled in the SBP and would like to stop receiving their bill every month for something he never wanted. He did all their forms. His letter shows he simply cannot afford this plan with other life expenses and has wishes to be unenrolled since his retirement date. He has submitted multiple 2656-8 Forms. He was told 21 June 2024 that he faxed the forms without the date, however, he had re-faxed that on 28 December 2023 with the date included per the representative, that was never received on their end. He was called 21 June 2024 and told to resend the form.
3. The applicant provides and his service records show:

- He enlisted in the Regular Army on 29 April 2013
- He was married on 11 December 2015 to AC__
- He reenlisted on 15 February 2017 and 20 March 2019
- The PEB, 7 February 2023 shows the board found the applicant physically unfit and recommended a rating of 60% and his disposition be permanent disability retirement (PDRL)
- SBP Retirement Pay Worksheet 19 March 2023 shows the applicant declined coverage and circled spouse and children and put in the "x" in the children only box
- RCSBP, 1 December 2023 shows he was honorably retired on 19 March 2023, with disability, permanent. His DD Form 214 shows he completed 9 years, 10 months, and 21 days of active service
- Orders 0005462766 25 July 2023 placed the applicant on PDRL
- DFAS fax cover sheet, 2 June 2024 shows a list of attachments and forms since March 2023 to unenroll from SBP

4. A DFAS email, 2 July 2025 shows:

- The applicant's spouse did concur to declining SBP, however the document was sent and dated after retirement
- DFAS did not have the DD Form 2656 on file prior to retirement
- The original election was auto coverage, effective 20 March 2023
- The member was able to decline coverage during his 25th to 36th month of retirement. The current election is spouse and child excluded (decline), effective 10 May 2025. DFAS attached a copy of the election form DD Form 2656-8 (unable to open)

BOARD DISCUSSION:

After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was warranted. The Board carefully considered the applicant's record of service, documents submitted in support of the petition, and executed a comprehensive review based on public law, policy, and regulation. The evidence of record shows on 7 February 2023 a PEB found the applicant physically unfit and recommended a rating of 60 percent and his disposition be permanent disability retirement. The applicant and his spouse declined SBP coverage on DD Form 2656 albeit after the date of retirement. The Board noted it was the applicant and his spouse's intent not to participate in SBP upon his retirement. Therefore, the Board determined the applicant should be disenrolled from the SBP effective 20 March 2023 with reimbursement of any monies paid into the insurance program.

BOARD VOTE:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
XXX	XXX	XX	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:	:	:	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

The Board determined that the evidence presented was sufficient to warrant a recommendation for relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by showing the applicant and his spouse declined to participate in SBP effective 20 March 2023, and the declination was accepted and processed by the appropriate office in a timely manner. As a result, he was reimbursed ay monies paid into the insurance program.

X //Signed//

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. Title 10, U.S. Code, section 1552(b), provides that applications for correction of military records must be filed within 3 years after discovery of the alleged error or injustice. This provision of law also allows the ABCMR to excuse an applicant's failure to timely file within the 3-year statute of limitations if the ABCMR determines it would be in the interest of justice to do so.

2. Public Law 96-402, enacted 9 October 1980, provides that any person who has elected to participate in the SBP and who is suffering from a service-connected disability rated by the VA as totally disabling and has suffered from such disability while so rated for a continuous period of 10 or more years (or, if so rated for a lesser period, has suffered from such disability while so rated for a continuous period of not less than 5 years from the date of such person's last discharge or release from active duty) may discontinue participation in the SBP by submitting a request to discontinue participation to the Secretary concerned. Any such person's participation in the SBP shall be discontinued effective on the first day of the first month following the month in which a request under this paragraph is received by the Secretary concerned. Effective on such date, the Secretary concerned shall discontinue the reduction being made in such person's retired pay on account of participation in the SBP.

3. Department of Defense Financial Management Regulation (DODFMR) 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. 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.

4. DODI Instruction 1332.42, 30 December 2020 SECTION 4: Notification and Election, shows Discontinuing Spouse, Child, or Spouse and Child Coverage When Rated as Totally Disabled.

a. A retiree may discontinue participation upon notifying the Secretary concerned that:

(1) The Department of Veterans Affairs (VA) has granted the retiree a service-connected, totally disabled rating.

(2) The retiree has suffered from that disability while so rated continuously for:

a. Either 10 or more years; or

b. For at least 5 years from the retiree's date of last discharge or release from active duty, if the retiree was rated as totally disabled from the date of last discharge or release from active duty.

(3) An election to discontinue spouse, child, or spouse and child coverage due to a total-disability rating must be in writing and requires written consent of the spouse beneficiary.

(4) The Director, DFAS, acting on behalf of the Secretary concerned, must provide a written statement to the retiree of the advantages of participating and the possible disadvantages of discontinuing participation.

(5) Premiums and coverage for a spouse, child, or spouse and child end on the first day of the first month following the day when the Secretary concerned receives the written consent of the beneficiary or beneficiaries required by Paragraph 4.6.d.(2). The retiree may revoke the request to discontinue participation within the 30-day period after submitting the request to the Secretary concerned.

(6) Upon the death of a retiree who is totally disabled, and who elected to discontinue coverage, any premiums paid for spouse coverage must be refunded to the surviving spouse.

(7) In the case of the VA changing the rating of the retiree to less than totally disabled, the participant may elect to resume SBP or RC-SBP coverage within the 1-year period immediately following the VA notification of such a change. Coverage is limited to the type and amount of SBP or RC-SBP coverage initially elected unless another provision of this issuance allows for changes. Premiums begin on the effective date as described in Paragraph 4.8.

5. Department of Defense Instruction 1332.42 (SBP), currently in effect, states in Paragraph 1.2 (Policy):

(1) Retiring members of the uniformed services will have the option to provide, in exchange for a reduction in retired pay, an annuity payable to their survivor or survivors upon their own death.

(2) All Service members who are eligible to participate in SBP upon retirement but who fail to make an election before the date they are placed on the retired list will, by law, automatically have full, immediate SBP coverage for their dependent spouse and/or children as of the date placed on the retired list.

(3) Written spousal consent is required if a Service member declines spousal coverage or provides the spouse with less than the maximum coverage available at the time the member becomes eligible to participate in SBP. The exception to this requirement is if former spouse coverage is required pursuant to a court order or written agreement, or the former spouse coverage is voluntarily elected by the Service member.

6. Public Law 92-425, the 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. An election, once made, was irrevocable except in certain circumstances. This law also provides that every member having a spouse and/or child(ren), who retired/transfers to the retired list on or after that date, is automatically covered under SBP at the maximum rate unless he/she elected otherwise before retirement or transfer to the retired list.

7. Title 10, U.S. Code, section 1448, required 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.

//NOTHING FOLLOWS//