

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 26 August 2025

DOCKET NUMBER: AR20240006436

APPLICANT REQUESTS: in effect:

- a. correction of her records to show she declined to participate in the Survivor Benefit Plan (SBP) in connection with her disability retirement; and
- b. termination or waiver of the debt associated with SBP premiums.

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

- DD Form 149 (Application for Correction of Military Record)
- Self-Authored Statement
- SBP Billing Invoice

FACTS:

1. The applicant states she is being charged for SBP coverage but does not recall signing up for coverage. She has been getting Department of Veterans Administration disability since 2018 and only recently started receiving SBP bills. She does not have any of her separation papers.

2. The applicant provides, and her service and Defense Finance and Accounting Service (DFAS) records show:

- On 5 January 2005, she enlisted in the Ohio Army National Guard
- On 14 February 2008, she married S____ E. S____
- she was ordered to active duty in support of Operation Enduring Freedom from 24 March 2012 through 6 February 2013
- On 13 September 2013, she and S____ E. M____ divorced
- On 2 August 2019, she married J____ W. B____ [marriage documents unavailable for review]
- DA Form 199 (Informal Physical Evaluation Board (PEB) Proceedings), 30 October 2019, shows a PEB found her physically unfit and recommended a disability rating of 70 percent and permanent disability retirement

- Headquarters, U.S. Army Physical Disability Agency, Orders D 323-04, 19 November 2019, order her retired by reason of permanent physical disability and placed her on the Retired List effective 24 December 2019
- On 23 December 2019, the applicant was honorably retired and placed on the permanent disability retired list
- On 23 January 2024, she submitted a SBP Election Change Certificate to DFAS, showing her current coverage as spouse only and her request to suspend coverage
- On 31 January 2024, DFAS responded to the applicant noting:
 - they did not receive her original SBP election on DD Form 2656
 - that she should complete, sign, and return DD Form 2656-8 (SBP Auto Coverage Fact Sheet)
- The SBP billing invoice dated 6 March 2024 shows an unpaid balance of \$181.32
- On 13 August 2024, she completed DD Form 2656-8, showing she was married with four dependent children
- The SBP billing invoice dated 6 November 2024 also shows an unpaid balance of \$181.32
- On 6 February 2025, a DFAS representative stated the applicant was automatically enrolled in SBP coverage 24 December 2019 and her coverage remains the same
- On 13 February 2025, she submitted a notarized SBP Termination Request, with her spouse concurrence
- a DFAS Retired Pay Liaison system response, 7 July 2025 noted the applicant is currently receiving all funds from the VA, she requested SBP, but has not paid the amount due for premiums, an attached DFAS letter on 26 June 2025 noted:
 - An audit on your military retired pay account noted a balance due in the amount of \$11849.92 for SBP premiums
 - Your SBP premiums are required to be remitted monthly, and your payments are currently in a delinquent status
 - You are required to pay SBP premiums directly to DFAS because you have insufficient retired pay and/or Combat Related Special Compensation (CRSC) from which to deduct the monthly SBP premium

BOARD DISCUSSION:

After reviewing the application, all supporting documents, and the evidence found within the applicant's military records, 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. Upon review of the applicant's petition and available military records, the Board determined the applicant's request for termination of SBP has merit. The Board noted that the applicant is a standard annuity participant due to being a physically disabled retiree and he was automatically enrolled into the SBP for that reason in accordance with Title 10, section 1148. However, the Board concluded that it was unjust for an applicant to unknowingly accrue the debt and they believed the applicant's claim that she was unaware that she was automatically enrolled in the SBP program and incurred a debt. Therefore, the Board concluded the applicant SBP should be terminated and her debt waived, granted relief.

BOARD VOTE:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
XX	XX	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 she properly declined SBP on 19 December 2024, and her election was received and processed in a timely manner by the appropriate office, and any payments or debt incurred be reimbursed or cancelled.

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. Public Law 92-425, enacted 21 September 1972, established the SBP. The SBP 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. Elections are made by category, not by name. An election, once made, was irrevocable except under very specific circumstances. The election must be made before the effective date of retirement or coverage defaults to automatic spouse coverage.
2. Public Law 99-145, enacted 8 November 1985 but effective 1 March 1986, required written concurrence by the spouse in a member's decision to decline the SBP or elect spouse coverage at less than the full base amount.
3. Public Law 105-85, enacted 18 November 1997, established the option to terminate 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 the SBP. The spouse's concurrence is required. No premiums will be refunded to those who opt for disenrollment. 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.
4. Public Law 96-402, enacted 9 October 1990, provided 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 in the Plan to the Secretary concerned. Any such person's participation in the Plan shall be discontinued effective the first day of the first month following the month in which a request is received by the Secretary concerned.
5. Title 10, U.S. Code, section 1448(a)(2)(A), provides that a standard annuity participant is a person who is eligible to participate in the Plan under paragraph (1)(A) and who is married or has a dependent child when he/she becomes entitled to retired pay, unless he/she elects (with spouse's concurrence, if required), not to participate in the Plan before the first day for which he/she is eligible for that pay. Section 1448(a)(4) provides that an election under paragraph (2)(A) is irrevocable if not revoked before the date on which the person first becomes entitled to retired pay.
6. Department of Defense Instruction 1332.42 (SBP) establishes policy, assigns responsibilities, and provides procedures for administration of the SBP Program, Reserve Component SBP Program, Special Survivor Indemnity Allowance, and SBP Advisory Group. Paragraph 4.2 (Spouse Concurrence Requirement) states written

spousal concurrence is required when the member elects less than the maximum coverage. The signature of the spouse must be notarized on the DD Form 2656 on a date that is on or after the date the service member signed the form but before the date of retirement.

//NOTHING FOLLOWS//