

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 21 February 2025

DOCKET NUMBER: AR20240007073

APPLICANT REQUESTS: in effect, correction of his record to show he changed his Survivor Benefit Plan (SBP) election to spouse coverage within 1 year of his marriage on 7 July 2020.

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

- DD Form 149 (Application for Correction of Military Record)
- Letter to the Defense Finance and Accounting Service (DFAS), 10 March 2024
- DD Form 2656-6 (SBP Election Change Certificate) (page 1 only)
- Fax cover sheets and Notary Public certification, 15 December 2023
- DFAS letter, 21 March 2024
- Fax Transmission Verification Report
- DD Form 2656-6, 19 August 2022 (complete copy)
- DFAS letter, 14 February 2024
- Notes with a timeline

FACTS:

1. The applicant states he is requesting enrollment of his spouse in SBP. Paperwork has been submitted multiple times over the past 4 years from multiple locations. Submissions were made within one year of marriage and during an open season to try to correct the issue. He suspects the failure to receive and process the paperwork is due to a fax machine failure at DFAS. *(The applicant's complete statement is available for the Board to review.)*

2. On 31 July 2017, the applicant retired from active duty service as a member of the Army National Guard after completing over 21 years of active duty service. The available records confirm he was not married at the time.

3. The available evidence shows the applicant married Ana on 7 July 2020.

4. On 19 August 2022, the applicant completed a DD Form 2656-6 on which he indicated he currently had no SBP coverage and was requesting a change in coverage based on marriage. He requested spouse only SBP coverage.

5. On 14 February 2024, DFAS advised the applicant they had received his enrollment request for the SBP open season. DFAS found he was not eligible to enroll in SBP coverage during the open season. He was already enrolled in SBP and was not eligible to change his coverage during the SBP open season.

6. In a 2-page letter to DFAS dated 10 March 2024, the applicant explained the difficulty he had with repeated attempts to submit an SBP change election beginning in October 2020 and requested his SBP election be changed to his spouse. *(The letter is available in its entirety for the Board to review.)*

7. On 21 March 2024, a Military Pay Technician, Retired and Annuitant Pay, DFAS, advised the applicant they were unable to process his request to add his spouse to his SBP. He was further advised that to add a spouse, participants must submit an election prior to the 1-year anniversary of the date of marriage.

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 actions taken by the applicant, the Board concluded that the applicant was not properly trained about the timeliness requirements of submitting changes for SBP coverage. As a result, the Board found there was an injustice present warranting changing the applicant’s record to show he made a timely submission to add his spouse to his SBP coverage.

BOARD VOTE:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
: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 to change his SBP coverage on 31 July 2020 (within one year of the marriage date) adding his spouse as an SBP beneficiary.

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. An election, once made, was irrevocable except in certain circumstances. The election must be made before the effective date of retirement or coverage defaults to automatic spouse coverage. Since its creation, it has been subjected to a number of substantial legislative changes.
2. Title 10, U.S. Code, section 1448(a)(5), provides that a person who is not married and has no dependent child upon becoming eligible to participate in the Survivor Benefit Plan (SBP) but who later marries or acquires a dependent child may elect to participate in the SBP. Such an election must be written, signed by the person making the election, and received by the Secretary concerned within 1 year after the date on which that person marries or acquires that dependent child.
3. The National Defense Authorization Act for Fiscal Year 2023 included an SBP open season. The SBP open season began on 23 December 2022 and ended on 1 January 2024.
 - a. The SBP open season allowed retirees receiving retired pay, eligible members, or former members awaiting retired pay who were currently not enrolled in the SBP or Reserve Component SBP as of 22 December 2022 to enroll. For a member who enrolled during the SBP open season, the law generally required that the member

would be responsible to pay retroactive SBP premium costs that would have been paid if the member had enrolled at retirement (or enrolled at another earlier date, depending on the member's family circumstances). For retirees receiving pay, enrollment requires paying the premiums plus interest for the period since the date they were first eligible to enroll, as well as the monthly premiums moving forward.

b. The SBP open season also allowed eligible members and former members who were currently enrolled in the SBP or Reserve Component SBP as of 22 December 2022 to permanently discontinue their SBP coverage. The law generally required the covered beneficiaries to concur in writing with the election to discontinue. Previously paid premiums would not be refunded.

//NOTHING FOLLOWS//