

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 8 January 2025

DOCKET NUMBER: AR20240007528

APPLICANT REQUESTS: in effect, correction of her late husband's records to show he changed his Survivor Benefit Plan (SBP) election from "Former Spouse" to "Spouse" coverage within 1 year of enactment of the National Defense Authorization Act for Fiscal Year 2016 that enabled retirees to transfer their SBP eligibility to a new spouse upon the former spouse's death.

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

- DD Form 149 (Application for Correction of Military Record under the Provisions of Title 10, U.S. Code, Section 1552)
- Applicant's Certificate of Live Birth, 9 March 1961
- Marriage License, 3 June 2003
- Former Spouse's Certification of Death, 25 November 2013
- SM's DD Form 2656-6 (SBP Election Change Certificate), 6 September 2014
- Service Member's (SM's) Letter to the Defense Finance and Accounting Service (DFAS) Retirement Pay (Notification of Former Spouse Death and Survivors Benefits), 9 September 2014
- DFAS Retired and Annuity Pay Letter, 24 February 2016
- SM's Expression of Interests: In Resuming SBP Coverage for a Spouse after the Death of a Covered Former Spouse), 5 April 2016
- SM's DD Form 2656-6 (front page only), undated
- SM's DD Form 2656-6, 13 February 2023
- DFAS U.S. Military Retired Pay Letter, 24 February 2023
- SM's Letter of Intent to Enroll during the SBP Open Season (December 23, 2022, to January 1, 2024), 27 September 2023
- DFAS U.S. Military Retired Pay Letter, 14 November 2023
- SM's Letter to DFAS, 26 December 2023
- SM's DD Form 2656-6, 28 December 2023
- SM's Certification of Vital Record – Certificate of Death, 7 February 2024

FACTS:

1. The applicant, the surviving spouse of a deceased retired SM, states her late husband had repeatedly tried to add her as his SBP beneficiary since the 2016 SBP

Open Season. He was denied multiple times through miscommunication. Her husband passed away on 7 February 2024 after a 13-year battle with cancer. She and her husband felt they were entitled to this benefit and counted on having it for her retirement. This is a request that should have been easy; it seems the holdup has always been paying for the arrears, which they have always been able and willing to make. They just needed the proper forms or a request from DFAS to pay the arrears but never received the documents. She is willing to pay any premiums in arrears.

2. Following prior enlisted service in the Regular Air Force and Regular Army, the SM was appointed as a Reserve warrant officer of the Army and executed his oath of office on 13 December 1991.

3. The SM was promoted to the rank/grade of chief warrant officer 2/W-2 effective 13 December 1993.

4. The SM's DD Form 2656 (Data for Payment of Retired Personnel) (pages 3 and 4 only), 5 November 1998, shows in:

a. Section I (Pay Identification), block 3 (Retirement/Transfer Date), he entered "1 January 1999 [should read 31 December 1998]";

b. Section IV (Federal Income Tax Withholding Information), block 14 (Marital Status), he placed an "X" in the "Single" block;

c. Section VI (Dependency Information), block 22 (Spouse Name), he entered "N/A";

d. Section VI, block 27 (List Your Dependent Children), he listed R____ L. G____, a daughter with a birthdate in 1979, and T____ K. G____, a son with a birthdate in 1980;

e. Section VII (SBP Election), block 28 (Beneficiary Category(ies), he placed an "X" in the box by the statement "I elect coverage for the person named in item 30 who is my former spouse";

f. Section VII, block 29 (Level of Coverage), he placed an "X" by the statement "I elect coverage with a reduced base amount of \$650.00";

g. Section VII, block 30 (Name of Insurable Interest or Former Spouse Beneficiary), he listed "M____ L. G____" as his "Former Spouse"; and

h. Section IX (Certification), he and his witness signed and dated the form on 5 November 1998 at Fort Hood, TX.

5. Neither the SM's records nor the DFAS database contains a marriage certificate or divorce decree for the SM and his former spouse, M____ L____ G____.
6. The SM retired on 31 December 1998 in the rank/grade of chief warrant officer 2/ W-2. His DD Form 214 (Certificate of Release of Discharge from Active Duty) shows he completed 7 years and 18 days of net active service during this period; 16 years, 8 months, and 24 days of total prior active service; and 5 months and 3 days of total prior inactive service.
7. The SM and the applicant, L____ L____ M____, married on 30 May 2003.
8. The former spouse's death certificate shows she died on 18 November 2013. Her marital status is shown as divorced and the SM's son, T____ G____, is shown as the informant.
9. In his 15 December 2013 letter to the DFAS Assistant General Counsel for Garnishment Operations (Notification of Former Spouse Death), the SM informed DFAS of the passing of his former spouse, M____ L____ G____, on 18 November 2013 and provided her death certificate. He further requested stoppage of SBP premium payments and return of those funds to his retired pay.
10. The SM's DD Form 2656-6, 6 September 2014, shows in:
 - a. Section II (Current Coverage), block 7 (My Current Coverage), he placed an "X" in the box "Suspended Coverage (See Note – Suspended coverage occurs when the member loses his/her spouse beneficiary to death or divorce; or his/her former spouse beneficiary remarries before age 55; or his/her children exceed the age for eligibility);
 - b. Section III (Conditions that Trigger Eligibility to Change Coverage), block 8 (I am requesting a change in coverage based on), he placed an "X" in the "Remarriage" box by the statement "Increase existing level of coverage – up to full retired pay" and he placed an "X" in the box "Death of Spouse. A member with spouse coverage, who subsequently loses that spouse to death, must select 'Suspend Coverage' in Section IV. Reminder: Death does not permanently terminate SBP spouse coverage. Coverage and costs are simply suspended pending future events (Note: if either 'Divorce' or 'Death of Spouse' is selected, and the member had previously elected spouse and child coverage, the coverage would convert to 'Child Only' coverage if the member has an eligible child. Exception: In the event of divorce and the member is required to provide former spouse coverage)";
 - c. Section IV (Requested Change to Coverage), block 9, he placed an "X" in the "Spouse Only" box;

- d. Section V (Level of Coverage), he placed an "X" in the "Full Retried Pay" box;
- e. Section VI (Spouse and Child(ren) Information), he listed "L____ L____ G____" as his spouse with a marriage date of 30 May 2003; and
- f. Section VII (Member's Signature), he signed the form on 6 September 2014 and a notary public witnessed and signed the form on the same date.

11. The SM's letter to DFAS Retirement Pay (Notification of Former Spouse Death and Survivors Benefits), 9 September 2014, requested changing his SBP beneficiary from his deceased former spouse, M____ L____ G____, to his current spouse. He stated he married his current spouse, L____ L____ G____, on 30 May 2003.

12. The DFAS Retired and Annuity Pay letter to the SM, 24 February 2016, announced:

The National Defense Authorization Act for Fiscal Year 2016 (NDAA FY16), Pub.L. No. 114-92 § 641 [Public Law 114-92, section 641] amended the Survivor Benefit Plan (SBP) statute to provide a member who had made an election to provide SBP or Reserve Component SBP (RCSBP) coverage for a former spouse the ability to cover a subsequent spouse if the former spouse dies. The enactment of this legislation included provisions in the form of an open season period to accommodate members whose covered former spouse beneficiaries were already deceased when the legislation was enacted.

Am I eligible for this Open Season?

You have been identified as a military retiree who once elected former spouse coverage which is now discontinued. You may be eligible to elect coverage for a current spouse during this open season period if before November 25, 2015, you had a former spouse beneficiary under the SBP who died before that date and if you were on November 25, 2015, married to a subsequent spouse. You may DISREGARD this notice if you are not currently married if your former spouse SBP coverage was discontinued for any reason other than the death of your covered former spouse.

How do I make an election to cover my current spouse?

If you have an interest in making the election, please complete the enclosed expression of interest form. Please make sure you enclose the following documents with your expression of interest:

- Certificate of Death for the Former Spouse
- Marriage Certificate for Current Spouse

- Birth Certificate for Current Spouse
- Attached Expression of Interest Form

Once we have received your expression of interest with the necessary supporting documents, we will prepare an estimate of the costs associated with the coverage, and any retroactive premiums due from the effective date of the coverage. We will provide this estimate to you along with a blank "Final Election" form. Once you have reviewed the figures, if you decide to elect the coverage, you will need to complete and sign the "Final Election" form and return it to us. The election must be made with the form provided or in writing. It must be received by the Defense Finance and Accounting Service-Cleveland with a postmark on or before November 24, 2016.

Once made, this election is irrevocable. Coverage may only be established at the level of coverage previously elected for your former spouse. The member is responsible for all premiums due from the effective date of the election. The option to cover a current spouse during this open season will run through November 24, 2016.

When will my election become effective?

Married ON the Date of the Death of the Former Spouse – If you had been married for at least 1 year on the former spouse's date of death, the effective date is the 1st day of the 1st month after the date of death of the former spouse.

Married AFTER Death of the Former Spouse – If you married after the former spouse's date of death (or in the 1 year period preceding the date of death of the former spouse), the effective date is the 1st day of the 1st month after the 1st anniversary of the marriage.

Retroactive premiums will be effective on the date of the election. You will be responsible for all premiums for this time period. An estimate of premiums and payment options will be provided after receipt of your expression of interest form. You will be required to pay the premiums in either a lump-sum amount or over a period of months, but all premiums must be paid within 24 months of the date of your final election.

13. The Expression of Interest: In Resuming SBP Coverage for a Spouse after the Death of a Covered Former Spouse document, 5 April 2016, shows the SM indicated his desire to see an estimate of the costs involved in resuming coverage for his spouse after the death of his former spouse. He listed his former spouse as M____ L. G____ with a date of death of 18 November 2013 and listed his current spouse as

L____ L. G____ with a marriage date of 30 May 2003. He signed this document on 5 April 2016. (Note: An estimate of cost is not available for review.)

14. The SM's DD Form 2656-6 (SBP Election Change Certificate) (front page only), undated, shows in:

a. Section I (Member Information), block 3 (Date of Retirement), he entered "31 December 1998";

b. Section II (Current Coverage), block 7 (My Current Coverage), he placed an "X" in the "Former Spouse" box"; and

c. Section III (Conditions that Trigger Eligibility to Change Coverage), block 8 (I am requesting a change in coverage based on:), he placed an "X" in the box by the statement "Death of Spouse. A member with spouse coverage, who subsequently loses that spouse to death, must select 'Suspend Coverage' in Section IV. Reminder: Death does not permanently terminate SBP spouse coverage. Coverage and costs are simply suspended pending future events. (Note: if either 'Divorce' or 'Death of Spouse' is selected, and the member had previously elected spouse and child coverage, the coverage would convert to 'Child Only' coverage if the member has an eligible child. Exception: In the event of divorce and the member is required to provide former spouse coverage)."

d. The back page of this form is missing and it is unclear when the SM signed and dated the form.

15. The SM's DD Form 2656-6, 13 February 2023, shows in:

a. Section I (Member Information), block 3 (Date of Retirement), he entered "31 December 1998";

b. Section II (Current Coverage), block 7 (My Current Coverage), he placed an "X" in the box "Suspended Coverage (See Note) (Note: Suspended coverage occurs when the member loses his/her spouse beneficiary to death or divorce; or his/her former spouse beneficiary remarries before age 55; or his/her children exceed the age for eligibility)";

c. Section III (Conditions that Trigger Eligibility to Change Coverage), block 8 (I am requesting a change in coverage based on:), he placed an "X" under "Remarriage" by the statement "Resume existing level of coverage for my new spouse";

d. Section IV (Requested Change to Coverage), block 9, he placed an "X" in the "Suspend Coverage" box; and

e. Section VII (Member's Signature), he signed the form on 13 February 2023 and a Retirement Services Officer witnessed and signed the form at Fort Hood, TX, on the same date.

16. The DFAS U.S. Military Retired Pay letter, 24 February 2023, informed the SM that DFAS received his correspondence but could not take action to add his current wife since he did not notify them within 1 year after the death of his former spouse. DFAS informed him to check the DFAS website for the open season for an opportunity to add his current wife as his SBP beneficiary.

17. The SM's Letter of Intent to Enroll during the SBP Open Season (December 23, 2022, to January 1, 2024), 27 September 2023, shows his intent to enroll in "Spouse Only" coverage during the 2023 SBP Open Season.

18. The DFAS U.S. Military Retired Pay Letter, 14 November 2023, informed the SM that DFAS received his enrollment request for the SBP Open Season. After review, DFAS found he was not eligible to enroll in the SBP coverage during the Open Season. DFAS further informed him that he was already enrolled in the SBP and he was not eligible to change his coverage during the SBP Open Season.

19. The SM's letter to DFAS, 26 December 2023, responded to the 14 November 2023 DFAS letter, requesting reconsideration in making his current wife his SBP beneficiary after the death of his former spouse. He described his attempts to enroll his current spouse (see letter for details).

20. The SM's DD Form 2656-6, 28 December 2023, shows in:

a. Section I (Member Information), block 3 (Date of Retirement), he entered "31 December 1998";

b. Section II (Current Coverage), block 7 (My Current Coverage), he placed an "X" in the "No Coverage" box;

c. Section III (Conditions that Trigger Eligibility to Change Coverage), block 8 (I am requesting a change in coverage based on), he placed an "X" under "Remarriage" by the statement "Increase existing level of coverage – up to full retired pay";

d. Section III (Conditions that Trigger Eligibility to Change Coverage), block 8 (I am requesting a change in coverage based on), he placed an "X" in the box by the statement "Death of Spouse. A member with spouse coverage, who subsequently loses that spouse to death, must select 'Suspend Coverage' in Section IV. Reminder: Death does not permanently terminate SBP spouse coverage. Coverage and costs are simply suspended pending future events. (Note: if either 'Divorce' or 'Death of Spouse' is

selected, and the member had previously elected spouse and child coverage, the coverage would convert to 'Child Only' coverage if the member has an eligible child. Exception: In the event of divorce and the member is required to provide former spouse coverage)";

e. Section IV (Requested Change to Coverage), block 9, he placed an "X" in the "Spouse Only" box;

f. Section V (Level of Coverage), he placed an "X" in the "Full Retired Pay" box; and

g. Section VII (Member's Signature), he signed the form on 13 February 2023 and a notary public witnessed and signed the form at Heath, TX, on the same date.

21. The SM's death certificate shows he died on 7 February 2024 at age 68. He was married to the applicant at the time of his death.

22. The email correspondence from the DFAS Board for Correction of Military Records Technician (Reply: Army Review Boards Agency Assistance), 12 December 2024, states the SM was automatically enrolled for "Spouse Only" coverage on 1 January 1999. The SM's SBP status is currently "No Beneficiary" effective 16 November 2013. The DFAS database contains:

a. the SM's DD Form 2656 (pages 3 and 4 only), 5 November 1998, described above;

b. the SM's letter to the DFAS Assistant General Counsel for Garnishment Operations (Notification of Former Spouse Death), 15 December 2013, described above;

c. the DFAS Retired and Annuitant Pay letter, 26 September 2014, informing the SM that DFAS was unable to process his request for SBP coverage for his current spouse. The laws governing SBP state an election for former spouse SBP coverage terminates any prior coverage held. Therefore, regrettably, the law does not permit DFAS to add his current spouse to his SBP coverage. He had the option to petition the ABCMR for a records correction. DFAS further informed him that he had the option to elect for spouse coverage during a future Open Season enrollment period. Occasionally, Congress approves an Open Season enrollment period to allow retirees to enroll in the SBP when they previously weren't able to enroll;

d. the SM's Letter of Intent to Enroll during the SBP Open Season (December 23, 2022, to January 1, 2024), 27 September 2023, described above;

e. the DFAS U.S. Military Retired Pay letter, 14 November 2023, described above;

f. the SM's letter to DFAS, 26 December 2023, described above;

g. the SM's DD Form 2656-6, 28 December 2023, described above;

h. the DFAS U.S. Military Retired Pay letter, 29 January 2024, informing the SM that he could not add his current spouse during the Open Season due to having existing SBP coverage. DFAS noted there was an Open Season in 2016 wherein he submitted a request to add spouse coverage after the death of his former spouse; however, DFAS did not receive the form back indicating his payment method and therefore did not add his current spouse. DFAS noted he could apply to his branch of service's board of corrections if he wished to appeal this decision; and

i. the DFAS U.S. Military Annuitant Pay letter, 14 June 2024, informing the applicant that she was not eligible after reviewing her request to receive an SBP annuity under deceased SM's retired pay. DFAS notified her that a deemed election for former spouse coverage was made by the SM's former spouse within 1 year of their divorce. Therefore, the SM's former spouse is entitled to receive the SBP annuity. DFAS noted she had the right to file an appeal with the Defense Office of Hearing and Appeals (see letter for details).

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the SM's military records, the Board found that relief was warranted. The Board carefully considered the SM's record of service, documents submitted in support of the request and executed a comprehensive and standard review based on law, policy and regulation. Upon review of the applicant's request and available military records, the Board determined there is sufficient evidence to support the applicant's contentions for correction of her late husband's records to show he changed his Survivor Benefit Plan (SBP) election from "Former Spouse" to "Spouse" coverage within 1 year of enactment of the National Defense Authorization Act for Fiscal Year 2016 that enabled retirees to transfer their SBP eligibility to a new spouse upon the former spouse's death.

2. The Board noted the (applicant) surviving spouse of the deceased service member (SM), who retired in 1998 and initially elected SBP coverage for his former spouse. However, following the death of the former spouse in November 2013, the SM promptly notified DFAS and submitted a DD Form 2656-6 in September 2014 indicating his intent to change coverage to his current spouse. The Board agreed, although the SM was not yet eligible to make this change under the law at that time, his actions demonstrate a clear and timely intent to provide SBP coverage for his current spouse. Per enactment of the National Defense Authorization Act for Fiscal Year 2016, which amended Title 10, U.S. Code § 1448(b) to allow SBP coverage to transfer to a new spouse after the death

of a covered former spouse, the SM was notified by DFAS in February 2016 of his eligibility.

3. Evidence in the record show the SM responded to the notification and requested cost estimates to proceed with enrollment, the Board found it unclear whether he received the necessary information to complete the process. Despite multiple attempts including a Letter of Intent submitted during the 2023 SBP Open Season the SM was ultimately unsuccessful in securing coverage for his spouse prior to his death in February 2024. The Board found that the SM took reasonable and timely steps to comply with the amended SBP provisions and that administrative miscommunication likely prevented completion of the enrollment.

4. The Board recognized the SM documented intent, the timing of his actions, and the equities involved, and agreed that it would be unjust to deny the surviving spouse the benefit of SBP coverage. Therefore, the Board granted relief for correction of the SM's military records to reflect that he elected SBP coverage for his current spouse within the one-year window provided by the 2016 amendment, with coverage effective 1 December 2013.

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 the Army records of the individual concerned be corrected to show correction of the applicant's late husband's records to show he changed his Survivor Benefit Plan (SBP) election from "Former Spouse" to "Spouse" coverage within 1 year of enactment of the National Defense Authorization Act for Fiscal Year 2016 that enabled retirees to transfer their SBP eligibility to a new spouse upon the former spouse's death effective 1 December 2013.

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. Elections are made by category, not by name. 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. The National Defense Authorization Act for Fiscal Year 2016 amended the SBP statute to provide a member who had made an election to provide SBP or Reserve Component SBP coverage for a former spouse the ability to cover a subsequent spouse if the former spouse dies. The enactment of this legislation included provisions in the form of an open enrollment season to accommodate members whose covered former-spouse beneficiaries were already deceased when the legislation was enacted.
3. Public Law 114-92, section 641 (Death of Former Spouse Beneficiaries and Subsequent Remarriages under the SBP), 25 November 2015, amended Title 10, U.S. Code, section 1448(b), by adding the following new paragraph:

(7) Effect of Death of Former Spouse Beneficiary:

(A) Termination of Participation in Plan. A person who elects to provide an annuity to a former spouse under paragraph (2) or (3) and whose former spouse subsequently dies is no longer a participant in the Plan, effective on the date of death of the former spouse.

(B) Authority for Election of New Spouse Beneficiary. If a person's participation in the Plan is discontinued by reason of the death of a former spouse beneficiary, the person may elect to resume participation in the Plan and to elect a new spouse beneficiary as follows: (i) Married on the Date of Death of Former Spouse. A person who is married at the time of the death of the former spouse beneficiary may elect to provide coverage to that person's spouse. Such an election must be received by the Secretary concerned within one year after the date of death of the former spouse beneficiary. (ii) Marriage after Death of Former Spouse Beneficiary. A person who is not married at the time of the death of the former spouse beneficiary and who later marries may elect to provide spouse coverage. Such an election must be received by the Secretary concerned within one year after the date on which that person marries.

(C) Effective Date of Election. The effective date of election under this paragraph shall be as follows: (i) An election under subparagraph (B)(i) is effective as of the first day of the first calendar month following the death of the former spouse beneficiary. (ii) An election under subparagraph (B)(ii) is effective as of the first day of the first calendar month following the month in which the election is received by the Secretary concerned.

(D) Level of Coverage. A person making an election under subparagraph (B) may not reduce the base amount previously elected.

(E) Procedures. An election under this paragraph shall be in writing, signed by the participant, and made in such form and manner as the Secretary concerned may prescribe.

(F) Irrevocability. An election under this paragraph is irrevocable.

(b) Effective Date. Paragraph (7) of section 1448(b) of Title 10, U.S. Code, as added by subsection (a), shall apply with respect to any person whose former spouse beneficiary dies on or after the date of the enactment of this Act.

(c) Applicability to Former Spouse Deaths before Enactment.

(1) In General. A person: (A) who before the date of the enactment of this Act had a former spouse beneficiary under the Survivor Benefit Plan who died before that date; and (B) who on the date of the enactment of this Act is married, may elect to provide spouse coverage for such spouse under the Plan, regardless of whether the person married such spouse before or after the death of the former spouse beneficiary. Any such election may only be made during the one-year period beginning on the date of the enactment of this Act.

(2) Effective Date of Election if Married at Least a Year at Death Former Spouse. If the person providing the annuity was married to the spouse beneficiary for at least one year at the time of the death of the former spouse beneficiary, the effective date of such election shall be the first day of the first month after the death of the former spouse beneficiary.

(3) Other Effective Date. If the person providing the annuity married the spouse beneficiary after (or during the one-year period preceding) the death of the former spouse beneficiary, the effective date of the election shall be the first day of the first month following the first anniversary of the person's marriage to the spouse beneficiary.

(4) Responsibility for Premiums. A person electing to participate in the Plan under this subsection shall be responsible for payment of all premiums due from the effective date of the election.

5. Department of Defense Instruction 1332.42 (Survivor Benefit Plan), Section 4 (Notification and Election), paragraph 4.5 (Electing Spouse Coverage upon Death of Covered Former Spouse), states in accordance with Title 10, U.S. Code, section 1448(b), as amended by Public Law 114-92, section 641, a retiree who is participating in the SBP or Reserve Component SBP with former spouse coverage may, upon the death of that former spouse, elect to cover his or her current spouse under certain conditions described in paragraphs 4.5.a. through 4.5.c.

a. Remarried BEFORE Death of Former Spouse on or after 25 November 2015:

(1) If the covered participant was married to a new spouse before the death of his or her former spouse, the participant may elect to cover his or her new spouse if the former spouse died on or after 25 November 2015.

(2) The election to cover the new spouse must be made by the participant in writing to the Secretary concerned within 1 year of the death of the former spouse. Coverage is not automatic.

(3) The covered participant may not change the level of coverage already in place.

(4) Coverage for the new spouse is effective as of the first day of the first month following the month of the death of the former spouse beneficiary, or the first anniversary of the marriage, whichever is later.

b. Remarried AFTER Death of Former Spouse on or after 25 November 2015:

(1) If the covered participant marries a new spouse after the death of his or her former spouse, the participant may elect to cover his or her spouse if the former spouse died on or after 25 November 2015.

(2) The election to cover the new spouse must be made by the participant in writing to the Secretary concerned within 1 year of remarriage. Coverage is not automatic.

(3) The covered participant may not change the level of coverage.

(4) Coverage for the new spouse is effective as of the first day of the first month following the month in which the election is received by the Secretary concerned, or the first anniversary of the marriage, whichever is later.

c. Special Provisions when the Former Spouse Died before 25 November 2015:

(1) In the case of a covered participant who was already remarried before 25 November 2015 and whose former spouse beneficiary died before 25 November 2015, there is a 1-year window to designate the new spouse as beneficiary in accordance with Public Law 114-92. The enrollment window for such participants ended on 24 November 2016. While the level of coverage was required to remain the same, the effective date of coverage depended on how long the covered participant was married to the new spouse in relation to the death of the former spouse:

(a) If the covered participant was married to the new spouse for at least 1 year at the time of the death of the former spouse, the effective date of spouse coverage is the first day of the first month after the death of the former spouse.

(b) If the covered participant married the new spouse within the year immediately before the death of the former spouse, or after the death of the former spouse, the effective date of spouse coverage is the first day of the first month following the first anniversary of the remarriage.

(2) If the former spouse died before 25 November 2015, but the covered participant was not yet married to the new spouse as of 25 November 2015, that covered participant has 1 year from the date of marriage to elect coverage for the new spouse. Coverage is not automatic.

//NOTHING FOLLOWS//