

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 13 August 2025

DOCKET NUMBER: AR20240008756

APPLICANT REQUESTS: termination of her participation in the Survivor Benefit Plan (SBP).

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

- DD Form 149 (Application for Correction of Military Record) (online)
- Orders D 057-30, 26 February 2024
- Applicant Letter to the Defense Finance Accounting Service (DFAS), 26 November 2024
- DD Form 2656-2 (SBP Termination Request), 26 November 2024
- DFAS to Applicant, 19 February 2024
- Applicant Letter to DFAS, 4 March 2025
- DD Form 2656-5 Reserve Component SBP (RCSBP) Election Certificate, 4 March 2025
- Email to Army Review Boards Agency

FACTS:

1. The applicant states she was medically retired in March 2024 (she received a letter in the mail and two weeks later, she was Medically Retired). Because of the short turn-around, she was unable to attend any classes and/or receive information. She went to the Finance Office on Joint Base Lewis McChord (JBLM) to ask for assistance and was told because she was a Reservist, they couldn't assist her. She was finally able to speak to a representative at DFAS and it was explained that she had been automatically enrolled into "SBP" (she had to ask what it was) and even though she has no legal dependents, the only way to request to stop being charged for this, is to make this request. She requests to stop being charged for SBP as she has no dependents and did not request to be enrolled in this program.

2. The applicant provides, and her service records show:

- She enlisted in the Regular Army on 3 December 1985 with multiply reenlistments.

- She was honorably discharged on 11 May 1998, her DD Form 214 shows she completed 8 years, 5 months, and 18 days net active service, she was discharged due to disability, severance pay (\$38,458.20)
 - She was divorced from ADL__ on 18 February 2003 (her record is void of a marriage certificate for this marriage), the divorce decree does not show SBP information
 - She enlisted in the USAR on 20 September 2003
 - She had additional military service in the RA and USAR
 - She received a notification of eligibility (NOE) on 3 January 2013, which states that she had completed the required years of qualifying Reserve service and is eligible for retired pay on application at age 60
 - She entered active duty on 1 September 2014 and was released from active duty on 31 August 2015 and transferred to the USAR
 - Her Enlisted Record Brief, 1 September 2015 shows in section IV (Personal/Family Data) Marital Status Divorced
 - She remarried SLG__ on 24 September 2017 and was divorced on 10 December 2018. The divorce decree does not show SBP information
 - She entered active duty on 6 July 2019, was released from active duty on 20 August 2020 and transferred to the USAR
 - An Informal Physical Evaluation Board (PEB) Proceedings convened on 16 February 2024 and found the applicant physically unfit and recommended a rating of 60% and that her disposition be permanent disability retirement
 - Orders D 057-30, 26 February 2024 show the applicant was released from assignment and duty because of physical disability incurred while entitled to basic pay and under conditions that permit her retirement for permanent physical disability, effective date of retirement: 27 March 2024; date placed on retired list: 28 March 2024
 - Orders 0007532173, 11 March 2024 show the applicant was retired and placed on the permanent disability retired list, effective date: 28 March 2024
 - DA Form 2656-2 (SBP Termination Request), 26 November 2024 shows the applicant requested termination of participation in SBP
 - Applicant letter to DFAS, 4 March 2025 shows she was attempting to stop the deduction for the SBP
 - DA Form 2656-5 RCSBP Election Certificate, 4 March 2025 states she is not married, and she chose option A (she declined to make an election until age 60), she had no beneficiaries; however, the form is not signed or notarized and shows a divorce date of 10 August 2019 (NOTE: her service record does not show who or if she married for the 3rd time)
3. DFAS documents discussed above. DFAS Email, 2 May 2025 shows:
- SBP election as shown in the retirement system:

- Original: Automatic, effective 8 March 2024
- Current: Automatic, effective 8 March 2024

4. DFAS does not indicate whether or not the applicant made a valid RCSBP election at the time she received her NOE; or who or if she married for the 3rd time and whether or not former spouse coverage was required. In addition, the applicant does not provide any information regarding her multiple spouses, divorce decree and separation agreements, or any of her DD Form 2656 elections other than her termination request in 2024.

BOARD DISCUSSION:

1. 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.


2. Upon review of the applicant's petition and available military records, one potential outcome was to deny relief based on the applicant not providing any information regarding her multiple spouses, divorce decree, or separation agreements. The Board majority determined the applicant retired in March 2024 and was automatically enrolled in SBP or RCSBP 20 days prior to her retirement date, regulatory guidance provides for 90 days before being automatically enrolled. The applicant completed a SBP Termination Request (not signed or dated) in November 2024 and a DD Form 2656-5 after retirement. This further supports the applicant's contention that she did not receive the required SBP counseling prior to her retirement. Based on this, the Board granted relief.

BOARD VOTE:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
:	XXX	XXX	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
XXX	:	:	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 was not automatically enrolled in SBP, terminating her participation, and reimbursement for premiums paid.



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 106-398, 30 Oct 00, requires that upon receipt of this letter, a qualified Reserve Component (RC) member who is married will automatically be enrolled in the RCSBP under Option C below, Spouse and Child(ren) coverage based on Full Retired Pay, UNLESS spouse concurrence is provided (and witnessed by a notary).
2. 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.
3. Public Law 95-397, enacted 30 September 1978, established the RCSBP. The RCSBP provided a way for Reserve Component members, who qualified for Non-Regular (Reserve) retirement but were not yet age 60 and eligible to participate in the SBP, to provide an annuity for their survivors should they die before reaching age 60. Once a member elects either option B or C in any category of coverage, that election becomes irrevocable. Option B and C participants do not make a new SBP election at age 60. They cannot cancel SBP participation or change options they had in the RCSBP; the options automatically convert to SBP coverage. Three options are available:
 - option A – elect to decline enrollment and choose at age 60 whether to start SBP participation
 - option B – elect that a beneficiary receives an annuity if the member dies before age 60, but delay payment until the date of the member's 60th birthday
 - option C – elect that a beneficiary receive an annuity immediately upon the member's death if before age 60
4. Public Law 98-94, enacted 24 September 1983, established former-spouse coverage for retired members.
5. Public Law 99-661, 14 November 1986, permitted divorce courts to order SBP Coverage without the member's agreement in those cases where the retiree had elected spouse coverage at retirement or was still serving on active duty and had not yet made an SBP election.
6. Title 10, U.S. Code, section 1448(b)(3), incorporates the provisions of the Uniformed Services Former Spouses Protection Act relating to the SBP. It permits a person to elect

to provide an annuity to a former spouse. Any such election must be written, signed by the person making the election, and received by the Secretary concerned within 1 year after the date of the decree of divorce. The member must disclose whether the election is being made pursuant to the requirements of a court order or pursuant to a written agreement previously entered into voluntarily by the member as part of a proceeding of divorce.

7. Department of Defense Financial Management Regulation 7000.14R, Volume 7B, chapter 4, section 040604, states a member whose record is corrected to a military disability retirement under the Physical Disability Board of Review process and who was married on the retirement effective date will receive automatic full spouse coverage under the SBP unless the member makes an affirmative election for less than full spouse coverage within 90 days of being provided a DD Form 2656. Monthly SBP premiums for automatic or properly elected coverage must be charged from the effective retirement date. The spouse's concurrence on the DD Form 2656 must be signed on or after the date of the member's signature and otherwise conform to an election regarding spouse coverage.

a. A spouse who was married to the member on the effective date of retirement, who was subsequently divorced from the member and who has not signed the spousal concurrence on DD Form 2656, has 1 year from the date of the approved PDBR recommendation authorizing disability retirement to make a deemed former spouse SBP election, provided there is already in effect a court-approved written agreement or court order requiring the member to elect to provide such an annuity to the former spouse.

b. If the member had a former spouse on the effective retirement date, the member may elect former spouse SBP coverage. There is no requirement for spousal concurrence for a former spouse election, although the member's current spouse should be provided written notice of the former spouse election. A member who was not married and had no dependent child on the effective date of retirement, who remarries or acquires a dependent child subsequent to the effective date of retirement, may elect to participate in the SBP. The member has 1 year from either the date of acquiring a spouse or dependent child or the date of the approved PDBR recommendation authorizing disability retirement, whichever is later.

c. If the member had no spouse or dependent child on the effective retirement date and is not otherwise required to provide former spouse coverage, the member may elect to provide an annuity for an insurable interest person if such individual would have been qualified on the effective date of retirement.

d. If a member, who is retired for disability as a result of an approved PDBR

action, had previously made a Reserve Component Survivor Benefit Plan (RCSBP) election, that RCSBP election will be considered of no effect if the PDBR action is approved prior to the date that the member would have become eligible for reserve retired pay under 10 U.S.C., Chapter 1223.

//NOTHING FOLLOWS//