

IN THE CASE OF: [REDACTED]

BOARD DATE: 25 June 2025

DOCKET NUMBER: AR20240008818

APPLICANT REQUESTS: correction of his records to show he declined Survivor Benefit Plan (SBP) and reimbursement of premiums paid

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

- DD Form 149 (Application for Correction of Military Record)
- Integrated Personnel and Pay System - Army (IPPS-A) Update: Known Issues and All-User Access Update
- DD Form 214 (Certificate of Release or Discharge from Active Duty)
- Army Retirement Service Officer SBP Retiring Soldier Counseling Statement
- SBP Emails

FACTS:

1. The applicant states, in pertinent part:

- He retired in January 2023, during the IPPS-A "brown out" period
- The "brown out" period disrupted the normal out-processing procedures
- He could not obtain his DD Form 214 or other retirement documents
- His official discharge was delayed by three weeks
- This delay caused his automatic enrollment into SBP
- He has taken several steps to rectify the mistake
- He submitted the necessary paperwork to decline SBP and submitted a packet, during the open enrollment period
- The system has continued to enroll him in SBP
- The premiums have been consistently deducted from his retirement checks
- This has resulted into hundreds, if not thousands of dollars in financial loss

2. The applicant provides, his service record shows, and Defense Finance Accounting Service (DFAS) provides:

- On 7 November 2008, the applicant enlisted in the Army National Guard (ARNG)

- On 3 October 2022, he underwent a Physical Evaluation Board, which found him physically unfit and recommended a 70 percent disability rating and that he be permanently retired due to disability
 - On 6 December 2022, orders were published retiring the applicant effective 15 January 2023
 - On 5 January 2023, a document, IPPS-A Update: Known Issues and All-User Access Update, was published which describes the date discrepancies of the system
 - On 15 January 2023, he was honorably released from active duty and transferred to the U.S. Army Reserve (USAR) Control Group (Retired) due to disability, combat related
 - On 15 January 2023, he was honorably discharged from the ARNG and transferred to USAR Control Group (Retired Reserve) due to disability
 - On 30 January 2023, he completed a Data for Payment of Retired Personnel, which shows he elected not to participate in SBP; his spouse signed the form on 31 January 2023
 - On 10 April 2023, he received his SBP counseling
 - Email traffic regarding his SBP counseling and declination of SBP
 - On 29 August 2024, the applicant received a letter from DFAS stating they could not show he declined SBP because the date on the form was after his retirement; they could not disenroll him during the open season, because he was not retired prior to 22 December 2022
 - On 30 August 2024 and 9 September 2024, DFAS sent a letter to the applicant's Congressman explaining why they could not disenroll him from SBP
 - On 6 January 2025, the applicant completed an SBP Termination Request
 - On 15 January 2025, DFAS sent the applicant a letter stating they could not process his termination of SBP due to receiving it one month too early
 - On 17 February 2025, the applicant completed an SBP Termination Request
 - On 31 March 2025, DFAS sent the applicant a letter stating he had a debt of \$3,084.34 due to SBP premiums
3. On 5 June 2025, a DFAS representative said the applicant's current SBP status is no beneficiary (spouse and child excluded) effective 19 February 2025. His original election from retirement was spouse.
4. On 9 June 2025, the applicant responded to a request for information stating he is no longer paying SBP premiums but only because DFAS recently transitioned to a new payment method, and he has not yet submitted a check under that system. Prior to that he was current on all SBP payments. To date, he has not received reimbursement for the premiums he previously paid. When he called DFAS they indicated they may be waiting for the Board case to be finalized before processing any reimbursement.

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 and standard review based on law, policy and regulation. Upon review of the applicant's petition and available military record, the Board determined the applicant's request for correction of his records to reflect declination of Survivor Benefit Plan (SBP) coverage and reimbursement of associated premiums is warranted. Th Board noted the applicant retired in January 2023, during the Integrated Personnel and Pay System-Army (IPPS-A) "brown out," which hindered access to critical retirement documentation, including DD Form 214.

2. The applicant provided a notarized spousal concurrence dated 31 January 2023 explicitly stating his intent to decline SBP participation. This submission, combined with DFAS's confirmation that no beneficiary is listed as of 19 February 2025, supports the applicant's assertion that automatic enrollment occurred in error. Given these facts and the administrative limitations present during the brown out period, the Board finds by a preponderance of evidence that an injustice occurred. Relief is warranted to correct the record to reflect the applicant declined SBP coverage effective upon his retirement on 15 January 2023 and to authorize reimbursement of previously collected premiums.


BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	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 he properly declined the Survivor Benefit Plan (SBP) on 15 January 2023 with proper spousal concurrence, and his election was received and processed in a timely manner by the appropriate DFAS office. Such relief should result in the repayment of any previously paid SBP premiums.

X 
 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. 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. A member must have made the election within 90 days of receiving the notification of eligibility to receive retired pay at age 60 or wait until he/she applies for retired pay and elect to participate in the standard SBP. 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; RCSBP automatically converts to SBP coverage upon retirement. 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 receive 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

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 to disenroll. 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. Title 10, U.S. Code, section 1454 (Correction of Administrative Errors), states the Secretary concerned may, under regulations prescribed under section 1455 of this title, correct or revoke any election under this subchapter when the Secretary considers it necessary to correct an administrative error.

5. 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 RCSBP 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 RCSBP 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 will not be refunded.

6. Army Regulation 600-4 (Remission or Cancellation of Indebtedness) provides policy and instructions for submitting and processing packets for remission or cancellation of indebtedness to the Army. Requests for remission or cancellation of indebtedness must

be based on injustice, hardship, or both. In accordance with the authority of Title 10, U.S. Code (USC), section 7837 and/or Title 32, USC section 710(c), the Secretary of the Army may remit or cancel a Soldier's debt to the U.S. Army if such action is in the best interests of the United States.

//NOTHING FOLLOWS//