

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 25 March 2025

DOCKET NUMBER: AR20240009800

APPLICANT REQUESTS:

- Cancellation of his Survivor Benefit Plan (SBP) enrollment
- Refund all premiums deducted for his retired pay
- Cease any additional pay deductions

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

- DD Form 149 (Application for Correction of Military Record)
- Letter from spouse
- SBP and Reserve Component (RC) SBP Open Enrollment Election
- Letter from Defense Finance Accounting Service (DFAS), 26 March 2024
- SBP Open Season 2023 Enrollment Confirmation
- Cancellation Letter
- Letter from DFAS, 25 April 2024
- Marriage Certificate

FACTS:

1. The applicant states, his SBP enrollment request was submitted on 14 December 2023; however, DFAS did not notify him what the SBP would cost him until 26 March 2024 when they processed his SBP enrollment. It was impossible to notify DFAS within 30 days of signing the SBP enrollment form that he wanted to cancel it. When DFAS notified him of the amount SBP would cost, he immediately submitted his official request to cancel his enrollment because the cost was too much. He simply cannot afford to pay the monthly premiums.

2. The applicant provides the following documents:

a. A letter from his spouse informing the Board she concurs with the applicant's decision to opt out of the 2023 SBP enrollment program. They have decided to revoke his application submitted to DFAS on 14 December 2023 because they cannot afford it.

b. SBP and RCSBP Open Enrollment Election, 14 December 2023 shows the applicant elected SBP for spouse only during the open enrollment. He elected coverage based on his full gross retired pay. Based on the estimate he received, he elected to submit a partial payment of the amount of the "buy-in" premiums due and initiate a voluntary payment plan for the remainder to be deducted in 12 equal monthly installments plus installment interest, either from his retired pay or from his Combat Related Special Compensation pay.

c. Letter from DFAS, 26 March 2024, informs him his enrollment form for the 2023 SBP open season was received and processed. The letter shows the cost base amount, prospective monthly premium, and total buy-in premium with installment interest.

d. Self-authored letter to DFAS, 10 April 2024, states the letter is to officially opt out of the 2023 SBP enrollment program. He has decided to revoke his application submitted to DFAS on 14 December 2023.

e. Letter from DFAS, 25 April 2024, informs him his request to cancel his enrollment is not valid. Once a member submits an open enrollment election to participate, the member may cancel the election by notifying DFAS in writing within 30 days of making the election.

3. The applicant's service record shows he took the oath of office as a Reserve Commissioned Officer, in the rank of second lieutenant, on 4 October 1972. He took the oath of office in the Regular Army Infantry Corps, in the rank of major, on 14 August 1984. On 31 July 2000, he was honorably retired from the Regular Army. His service record is void of documentation concerning the SBP.

4. On 11 February 2025, DFAS responded to a request for information stating, the applicant originally denied SBP enrollment effective 1 August 2000. He currently has full spousal coverage effective 14 December 2023, when he applied during the 2023 open season.

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 showing the applicant was married when he retired in 2000, and he declined SBP with the concurrence of his spouse. Towards the end of the 2023 open enrollment period, the applicant sent in an enrollment for spouse SBP. On 26 March 2024, DFAS advised him of the \$209,408 buy-in premium and he immediately wrote to cancel his enrollment. DFAS denied his request because it was not within 30 days of his enrollment form. In the Board’s opinion, the applicant’s actions are clear. As soon as he had a complete picture for enrolling in SBP, he took immediate action to reverse the decision. Therefore, the Board concluded there is an injustice present which warrants cancelling the applicant’s Survivor Benefit Plan (SBP) enrollment and refunding all premiums previously deducted for his retired pay.

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 cancelling the applicant’s Survivor Benefit Plan (SBP) enrollment and refunding all premiums previously deducted for his retired pay.

//SIGNED//
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 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, the SBP, enacted 21 September 1972, provided that military members could elect to have their retired pay reduced to provide for an annuity after death to surviving dependents.

2. 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.

3. Title 10, U.S. Code, section 1552 (Correction of Military Records: Claims Incident Thereto), states the Secretary of a Military Department may correct any military record of the Secretary's Department when the Secretary considers it necessary to correct an error or remove an injustice. Such corrections shall be made by the Secretary acting through boards of civilians of the executive part of that Military Department.

//NOTHING FOLLOWS//