

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 7 August 2025

DOCKET NUMBER: AR20240009970

APPLICANT REQUESTS:

- To be disenrolled from the Survivor Benefit Plan (SBP)
- To have any SBP debt removed and refunded

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

- DD Form 149 (Application for Correction of Military Record)
- DD Form 2656-2 (SBP Termination Request)

FACTS:

1. The applicant states, in effect:

- He did not submit a DD Form 2656-8 (SBP Automatic Coverage Fact Sheet) requesting enrollment into SBP
- He was automatically enrolled in the SBP

2. The applicant provides and the service record shows:

- On 30 April 1979, he enlisted in the U.S. Army Reserve (USAR)
- On 2 July 1995, he married his spouse
- On 22 December 2002, their child was born
- On 23 June 2016, he received a Notification of Eligibility for Retired Pay at Non-Regular Retirement (20-Year Letter); he had 90 days to make a valid SBP election, otherwise, he would be automatically enrolled in spouse and child, full coverage
- There is no documentation to show he made a valid RCSBP election
- On 5 April 2022, (Orders: C-04-205179) he was assigned to the Retired Reserve, effective 16 March 2022
- On 27 November 2023, (Orders: C11-395833) he was retired and placed on the Retired List, effective 17 March 2022

- DD Form 2656-2 was signed by the applicant on 26 April 2025; the form was concurred by his spouse and witnessed on 27 April 2025
- Applicant confirmed he read and understood the advantages and disadvantages of continued SBP participation

3. The DFAS retired pay system reflects:

- Reserve Component Option: Immediate coverage effective 24 June 2020
- Original election: Automatic election for spouse, effective 17 March 2022
- Current election: Spouse and child, Full coverage, effective 17 March 2022

4. An email from DFAS to ABCMR (24 April 2025), states in effect, no documentation is available in the Go Docs system for the applicant.

BOARD DISCUSSION:

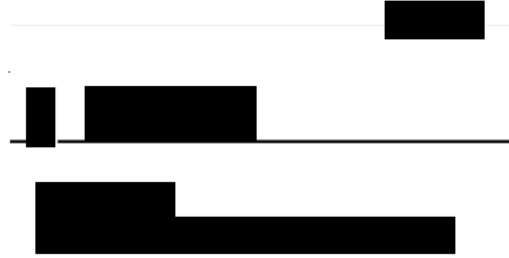
After reviewing the application, all supporting documents, and the evidence found within the applicant's military records, the Board found that relief was not warranted. The Board carefully considered the applicant's record of service, documents submitted in support of the petition, and executed a comprehensive review based on public law, policy, and regulation. Upon review of the applicant's petition and available military records, the Board determined the applicant received his Notification of Eligibility 16 June 2016. He had 90 days to make a valid Reserve Component Survivor Benefit Plan election otherwise he would be auto enrolled into the program. The Board concluded that since he did not make a valid election to decline RCSBP coverage with spousal concurrence at the time he was issued his NOE, there was no error injustice and denied relief.

BOARD VOTE:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
:	:	:	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
■	■	■	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

The evidence presented does not demonstrate the existence of a probable error or injustice. Therefore, the Board determined the overall merits of this case are insufficient as a basis for correction of the records of the individual concerned.



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, repealed the Retired Serviceman's Family Protection Plan (RSFPP) and established the Survivor Benefit Plan (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 very specific circumstances. The law states retiring members and spouses must be informed of SBP options and effects (10 USC 1455(a)(1)(A)). 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 those who qualified for Non-Regular (Reserve Component) retirement but were not yet age 60 to provide an annuity for their survivors should they die before reaching age 60. Three options are available: (A) elect to decline enrollment and choose at age 60 whether to start SBP participation, (B) elect that a beneficiary receive an annuity if they die before age 60 but delay payment of it until the date of the member's 60th birthday, and (C) elect that a beneficiary receive an annuity immediately upon their death if before age 60. Once a member elects either Option B or C in any category of coverage, that election is 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 coverage automatically converts to SBP coverage upon retirement.
3. Department of Defense Instruction 1332.42 (SBP), Paragraph 1.2 (Policy).
 - a. Retiring members of the uniformed services have the option to provide, in exchange for a reduction in retired pay, an annuity payable to their survivor or survivors upon their own death.
 - b. Uniformed services members on active or inactive duty will be covered automatically by SBP (1) while in an authorized duty status and serving in the line of duty and (2) at all times while in a duty status, regardless of a line-of-duty determination, after becoming eligible for a regular or non-regular retirement based on length of service.
 - c. All Service members who are eligible to participate in SBP upon retirement but who fail to make an election before the date they are placed on the retired list will, by law, automatically have full, immediate SBP coverage for their dependent spouse (as defined in the Glossary) and/or children as of the date placed on the retired list.
 - d. All elections to participate in the SBP or the RC-SBP programs, including default elections, are irrevocable except as described in Paragraphs 4.4. through 4.7.

4. Department of Defense Instruction 1332.42 (SBP), Paragraph 3.1c (Members Who Participate in SBP in Exchange for Reduction in Retired Pay).

a. Pursuant to Section 1448 of Title 10, U.S.C., the following Service members are covered in exchange for a reduction in retired pay unless opting, with spousal concurrence, if required, to decline coverage:

- A Service member who retires from active service with a regular retirement, or who is placed on or transferred to the Permanent Disability Retired List (PDRL);
- An RC Service member eligible for non-regular retirement pursuant to
- Chapter 1223 of Title 10, U.S.C. when he or she reaches the required age to receive retired pay, if the member:
 - Chose to defer an SBP election decision upon NOE and made an election for SBP upon reaching the required age;
 - Received NOE before January 1, 2001, but did not make an election, and had a dependent spouse or child upon reaching the required age; or
 - Elected a delayed SBP annuity that would only begin when he or she reaches the required age to receive retired pay, regardless of the date of death

b. Any retiree who qualifies and enrolls during an open enrollment period that maybe established under future law according to criteria established by that law.

c. All Service members described in Paragraph a above have full spouse or spouse and child SBP coverage unless the member, with spousal concurrence if married, elects:

- Spouse coverage at less than the full base amount described in
- paragraph 8.2;
- Child-only coverage; or
- Not to participate in SBP or RC-SBP

d. Unless a Service member chooses to reduce or decline coverage before the first day, he or she is entitled to retired pay, automatic coverage for maximum spouse, spouse and child coverage, or child-only coverage (if the member is not married but has an eligible dependent child) will be established.

e. A Service member or retiree may not revoke their decision to participate in SBP if not revoked before the date on which the person becomes entitled to retired pay. Automatic coverage established in Paragraph 3.1.c.(3) is also irrevocable.

5. Department of Defense Instruction 1332.42 (SBP), Paragraph 4.6 (Discontinuing Participation).

a. A member may elect to discontinue participation in SBP by submitting DD Form 2656-2 only during the period that is more than 2 years, but less than 3 years, after the first date of entitlement to receive retired pay.

b. The member must sign the request no earlier than the 1st day of the 25th month, and no later than the last day of the 36th month from the date of entitlement to retired pay, with spousal written concurrence, if applicable. The Director, DFAS, must receive the member's signed request no earlier than the first day of the 25th month, and no later than the last day of the 36th month from the date of entitlement to retired pay.

c. A member electing to discontinue coverage is not eligible for continuation in SBP; however, the member has 30 days after submitting a request to discontinue participation to revoke that request.

6. Department of Defense Instruction 1332.42 (SBP), Paragraph 4.7 (Administrative Error Corrections)

a. In accordance with Section 1454 of Title 10, U.S.C., a retiree who believes he or she was erroneously enrolled in the SBP or RC-SBP may request correction of coverage within 1 year following the date of his or her retirement or, in the case of non-regular retirees, within 1 year of the end of the 90 day period that followed NOE or within 1 year of the date of entitlement to receive retired pay.

b. The retiree must provide detailed justification for the correction in writing to the Secretary concerned. If it is proper to dis-enroll the participant from SBP, the applicable refund will be processed, if not otherwise prohibited by law. Such errors must be administrative in nature and not as a result of neglect by the participant. All other corrections may only be made by the applicable Board of Correction of Military (Naval) Records.

7. Title 10, U.S. Code, section 1448, requires notice to a spouse if a member elected not to participate in the SBP. The statute also provided for automatic enrollment for spouse coverage at the full base amount unless a member affirmatively declined to participate in the SBP prior to receiving retired pay.

8. Public Law 99-145, enacted 8 November 1985 but effective 1 March 1986, required written concurrence by the spouse in a member's decision to decline the SBP or elect spouse coverage at less than the full base amount.

9. 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.

//NOTHING FOLLOWS//