

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 28 August 2025

DOCKET NUMBER: AR20240010377

APPLICANT REQUESTS: in effect, correction of his records to show he declined to participate in the Survivor Benefit Plan (SBP) with spousal concurrence in connection with his permanent disability retirement.

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) via online application

FACTS:

1. The applicant states he was not aware there was a deduction associated with SBP. He is not receiving any retired pay as he retired by reason of permanent physical disability and is instead receiving compensation from the Department of Veterans Affairs (VA).
2. He enlisted in the U.S. Army Reserve on 16 October 2015 in the rank/grade of specialist/E-4.
3. His records contains a marriage certificate showing he married L____ A____ W____ on 19 November 2022.
4. He was promoted to the rank/grade of sergeant (SGT)/E-5 effective 4 November 2023.
5. The DA Form 199 (Informal Physical Evaluation Board (PEB) Proceedings), 12 January 2024, shows a PEB convened at Joint Base San Antonio, TX, on 19 December 2023 to determine his medical fitness for continued service in the Army. The PEB determined he was physically unfit and recommended a disability rating of 50 percent and his placement on the Permanent Disability Retired List (PDRL). He concurred and waived a formal hearing of his case on 9 January 2024.
6. U.S. Army Physical Disability Agency Orders D-011-20, 11 January 2024, retired him effective 10 February 2024 with a disability rating of 50 percent and placed him on the Retired List in the grade of SGT effective 11 February 2024.

7. Department of the Army Orders 0007056977, 23 January 2024, assigned him to the PDRL in the rank of SGT effective 11 February 2024.

8. The Defense Finance and Accounting Service (DFAS) database contains his DD Form 2656 (Data for Payment of Retired Personnel), 16 February 2024, that shows in:

a. Part I (Retired Pay Information), block 4 (Retirement/Transfer Date), he entered 10 February 2024;

b. Part III (SBP), Section IX (Dependency Information), block 31 (Spouse), he entered the name of his spouse as L____ W____ with a marriage date of 19 November 2022;

c. Part III, Section X (SBP Election (If you make no election, maximum coverage will be established for your spouse and/or eligible dependent children.)), block 36 (SBP Beneficiary Categories), he checked "I elect coverage for spouse only";

d. Part IV (Certification), Section XI (Certification), block 41 (Member), he digitally signed the form on 16 February 2024 and his signature was witnessed and digitally signed on the same date in Victoria, MN.

9. His DA Form 5016 (Retirement Accounting Statement), 14 November 2024, shows he completed 8 years of qualifying service for retirement.

10. The email correspondence from the DFAS Customer Service, 4 June 2025, notes the applicant currently has "Spouse Only" coverage.

BOARD DISCUSSION:

After reviewing the application, all supporting documents, and the evidence found within the military record, 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. The evidence of record shows the applicant enlisted in the USAR on 16 October 2015. He was medically retired on 10 February 2024. The Board noted on the DD Form 2656 completed by the applicant he opted into the SBP when he elected spouse coverage and found no error or injustice. The Board concluded the applicant's election was not in error or 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
XXX	XXX	XXX	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.

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. 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. 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.
3. 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.
4. Public Law 96-402, enacted 9 October 1990, provided that any person who has elected to participate in the SBP and who is suffering from a service-connected disability rated by the VA as totally disabling, and has suffered from such disability while so rated for a continuous period of 10 or more years (or, if so rated for a lesser period, has suffered from such disability while so rated for a continuous period of not less than 5 years from the date of such person's last discharge or release from active duty), may discontinue participation in the SBP by submitting a request to discontinue participation in the Plan to the Secretary concerned. Any such person's participation in the Plan shall be discontinued effective the first day of the first month following the month in which a request is received by the Secretary concerned.
5. 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.
6. Department of Defense Instruction 1332.42 (Survivor Annuity Program Administration) states a member may elect to discontinue participation by submitting a DD Form 2656-2 during the period that is more than 2 years but less than 3 years after the first date of entitlement to receive retired pay. The member must submit 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 concurrence if

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

7. In accordance with the DFAS website, retirees discontinuing (withdrawing from) SBP coverage due to a qualifying VA disability who meet one of the following criteria are eligible to discontinue participation in the SBP:

a. the retiree has had a service-connected disability rated by the VA as totally disabling for a continuous period of 10 or more years; or

b. the retiree has had a total disability rating from the VA for at least 5 continuous years immediately following the last date of discharge or release from active duty.

//NOTHING FOLLOWS//