ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [redacted]

BOARD DATE: 9 April 2025

DOCKET NUMBER: AR20240010552

APPLICANT REQUESTS: in effect, termination of his Survivor Benefit Plan (SBP)

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

- DD Form 149 (Application for Correction of Military Record)
- Letter from Defense Finance Accounting Service (DFAS)

FACTS:

1. The applicant states, he was not counseled or informed about the SBP program. Not knowing about this led to him being automatically enrolled into SBP. He did not and does not want anything to do with it. He unknowingly owes almost $1,300 for SBP because he did not know he was enrolled. He spoke to both DFAS and U.S. Army Human Resource Command regarding the issue. He has filed all required documents to ensure his declination of SBP.

2. The applicant provides, his service record shows, and DFAS provided the following information:

- On 30 October 2012, he enlisted in the Regular Army
- On 4 April 2023, a Physical Evaluation Board found him physically unfit for duty and recommended he be placed on the Temporary Disability Retired List at 70 percent with reexamination in December 2023; he concurred with the board's recommendation and waived a formal hearing
- On 24 June 2023, he was honorably transferred to U.S. Army Reserve Control Group (Retirement) due to disability, combat related
- On 16 February 2024, he completed a Data for Payment of Retired Personnel showing he elected not to participate in SBP with his spouse’s concurrence and was signed by a notary witness
- On two separate statements, 16 February 2024, the applicant and his spouse stated that they declined SBP coverage, but that they were erroneously and automatically enrolled into the plan

- On 13 March 2024, the applicant received a letter from DFAS informing him his SBP was established with automatic coverage due to a missing preretirement DD Form 2656 SBP election

3. On 27 March 2025, DFAS responded to a request for information stating the applicant had automatic SBP coverage effective 25 June 2023. His current SBP coverage is spouse, full, effective 25 June 2023.

BOARD DISCUSSION:

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. The evidence of record shows a PEB found the applicant physically unfit for duty and recommended he be placed on the Temporary Disability Retired List. DFAS notes that the applicant was automatically enrolled due to a missing preretirement DD Form 2656 SBP election. The Board concluded the applicant was not properly counseled regarding SBP. Therefore, the Board granted relief.

BOARD VOTE:

Mbr 1	Mbr 2	Mbr 3	
XXX	XXX	XXX	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 the applicant declined SBP at the time of his medical retirement and placement on the temporary disability retired list and the declination was accepted and processed by the appropriate office in a timely manner.

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, the Survivor Benefit Plan (SBP), enacted 21 September 1972, 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. However, surviving children are only entitled to SBP payments until reaching age 22 in certain cases. Changes in SBP options are not authorized except in specific instances, or authorized by law.

2. Public Law 105-85, enacted 18 November 1997, established the option to terminate Survivor Benefit Plan (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 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.

3. 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.

4. Department of Defense Financial Management Regulation, Volume 7b, states, elections in writing signed by the member, which contain all information necessary for declining coverage, are acceptable. Spousal concurrence is required when the member elects to decline coverage. The Secretary concerned may revoke an election when necessary to correct an administrative error. Once participation is discontinued under this provision, no benefits may be paid in conjunction with the members' previous participation. No refund of any premiums properly collected will be made.

//NOTHING FOLLOWS//