

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 22 April 2025

DOCKET NUMBER: AR20240010616

APPLICANT REQUESTS: in effect, amend his DD Form 2656 (Data for Payment of Retired Personnel) to show he elected not to participate in the Survivor Benefit Plan (SBP).

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) with spousal concurrence document

FACTS:

1. The applicant states, in effect:

- He was an officer in the U.S. Army Reserve (USAR) and an Individual Mobilization Augmentee (IMA)
- Because he was an IMA, he did not have a unit with which to retire and did not receive counseling as to the cost for SBP
- When he applied for retired pay, in April 2023, he elected spouse only SBP coverage based on his full gross pay; in December 2023, the U.S. Army Human Resources Command (HRC) approved his retirement application and issued orders placing him on the retired list effective 13 April 2024
- Right before his retired pay was to start, he learned how much SBP was going to cost; he immediately tried to cancel but was told it was too late
- In support of his request, the applicant provides a copy of a 9 May 2024 termination request that he sent to the Defense Finance and Accounting Service (DFAS), along with his spouse's concurrence with the termination

2. A review of the applicant's service record shows the following:

- On 9 August 2006, after completing commissioned service in the USAR and Regular Army, the applicant executed his oath of office as a USAR commissioned officer, and, on 23 March 2007, chose to remain a member of the Individual Ready Reserve

- On 3 January 2008, HRC issued the applicant his NOE (20-Year Letter); effective 10 April 2008, HRC released the applicant from the USAR Control Group (Reinforcement) and transferred him to The Retired Reserve
- The applicant's available service record is void of any documents showing SBP elections in 2008
- On 13 April 2023, the applicant applied to HRC for retired pay; with that application, he submitted a DD Form 2656, which indicated he had previously declined to make an SBP election until eligible to receive retired pay, but that he now chose to have spouse-only SBP coverage
- On 1 December 2023, HRC approved the applicant's retirement request and issued orders, showing the applicant's placement on the Army of the United States Retired List, effective 13 April 2024

3. Email correspondence from a DFAS pay technician, dated 2 April 2025, notes a Reserve Component SBP election for immediate coverage, effective 3 January 2008, and an original and current SBP election for full spouse coverage, effective 13 April 2024. The DFAS pay technician provided the following document from the DFAS database:

- Applicant's first request to cancel SBP election, dated 24 April 2024
- DFAS 29 April 2024 response stating SBP cannot be changed
- DFAS-CL Form 1077 (SBP Withdrawal Consent), dated 8 May 2024, showing the applicant's request to withdraw from SBP and that his spouse consented to his decision
- DD Form 2656-2, dated 9 May 2024, requesting termination of SBP and a notarized document reflecting his wife's consent
- DFAS letter, dated 8 June 2024, stating, as outlined on the DD Form 2656, the applicant had only one year to withdraw from SBP, and that year started on the 25th month after his first eligibility for retired pay, and ended on the 36th month; as such, the applicant was not yet eligible to withdraw from SBP

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. Upon review of the applicant's petition and available military records, the Board determined the applicant is not yet eligible to withdraw from the Survivor Benefit Program (SBP). The applicant has only one year to withdraw from SBP, and that year starts on the 25th month after his first eligibility for retired pay, effective 13 April 2024.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

:	:	:	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.

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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 on 21 September 1972, established the Survivor Benefit Plan (SBP). The SBP allowed military members on active duty to set up an annuity for their surviving dependents after the military member's death. Except in certain circumstances, an election, once made, is irrevocable. Declining to participate in the SBP must be made prior to the effective date of retirement or else coverage automatically defaults to full spouse coverage.

2. Public Law 95-397, the Reserve Component Survivor Benefit Plan (RCSBP), enacted 30 September 1978, provided a way for those who qualified for Reserve retirement but were not yet age 60 to provide an annuity for their survivors should they die before reaching age 60.

a. 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 they die before age 60 but delay payment of it until the date of the member's 60th birthday
- Option C – elect that a beneficiary receive an annuity immediately upon their death if before age 60.

b. 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 Survivor Benefit Plan (SBP) election at age 60. They cannot cancel SBP participation or change options they had in RCSBP. RCSBP coverage automatically converts to SBP coverage upon retirement.

3. Public Law 105-85, enacted 18 November 1997, established the option to terminate SBP participation.

a. 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.

b. 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. No premiums will be refunded to those who opt to disenroll.

c. Reservists who elected an option under the RCSBP will continue to have the Reservist Portion cost deducted from their retired pay.

4. Department of Defense Instruction 1332.42 (SBP), currently in effect, prescribes policies and procedures for the implementation of SBP. Paragraph 4.6 (Discontinuing Participation) states:

a. A member may elect to discontinue participation in SBP by submitting DD Form 2656-2 (SBP Termination Request). 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.

b. The Director, Defense Finance and Accounting Service (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.

//NOTHING FOLLOWS//