

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 28 May 2025

DOCKET NUMBER: AR20240010904

APPLICANT REQUESTS: correction of his records to show he declined participation in 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 (Data for Payment of Retired Personnel)
- Memorandum from Spouse

FACTS:

1. The applicant states due to an accidental error in the date of the form signed by his wife in front of a notary, he was automatically enrolled in SBP. He contacted Defense Finance Accounting Service (DFAS) to inquire about the issue and they stated the Board was the only agency that can correct the form.
2. The applicant provides, his service record shows, and DFAS provided:
  - On 27 August 1998, the applicant entered active duty in the Regular Army
  - On 10 April 2024, he completed a Data for Payment of Retired Personnel, wherein he declined to participate in SBP, with spousal concurrence is 7 May 2024; the notary signed the form on 8 May 2024
  - On 31 July 2024, he was honorably transferred to U.S. Army Reserve Control Group (Retired)
  - On 21 August 2024, his wife completed a memorandum for record which states she requests correction of the applicant's SBP; she accidentally dated the form as 7 May 2024 instead of the correct date of 8 May 2024; she concurs and supports the applicant's decision to not participate in SBP
3. On 5 May 2025, DFAS responded to a request for information stating the applicant was automatically enrolled in SBP effective 1 August 2024. His current enrollment is for spouse only, based on his full retirement pay effective 1 August 2024.

BOARD DISCUSSION:

1. 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 public law, policy and regulation. Upon review of the applicant's petition and available military records the Board determined the applicant retired from active Army in June 2024 and as a prelude to his retirement, he completed a DD Form 2656 declining enrollment in SBP. Evidence shows the applicant signed his DD Form 2656 on 10 April 2024 and his spouse signed on 7 May 2024 with notarization date of 8 May 2024.

2. The Board determined the applicant's form was deemed invalid due to different dates of the spouse signature and notarization, which automatically enrolled him in full SBP coverage for spouse and children. The Board noted based on the evidence, it was the applicant's intent to decline SBP coverage with his spouse's concurrence. However, due to the incorrect date being written by his spouse's he was enrolled. The Board agreed there is sufficient credible evidence of the applicant's intent and despite the discrepancy in dates between the spouse's signature and the notarization, it appears that his spouse was able to review the applicant's choice to decline SBP as he completed the form before she signed. As such, the Board granted relief.

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 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 properly declined the Survivor Benefit Plan (SBP) on 7 May 2024, with proper spousal concurrence, and his election was received and processed in a timely manner by the appropriate DFAS office. Such relief should result in the repayment of any previously paid SBP premiums.

// 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//