

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 2 September 2025

DOCKET NUMBER: AR20240011469

APPLICANT REQUESTS: correction of his records to show he declined 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 2656-5 (Reserve Component (RC) SBP Election Certificate)
- DD Form 2656 (Data for Payment of Retired Personnel)

FACTS:

1. The applicant states, in pertinent part:

- He does not want, nor has he ever wanted, SBP
- He completed an RCSBP Election Certificate on 10 May 2024, which his unit stated was needed to complete his paperwork
- He also completed a Data for Payment of Retired Personnel on 17 May 2024, which he was informed needed to be completed after retirement
- He apparently was misinformed on which documents were needed to be completed
- He requests the election for SBP be removed as he does not want the coverage

2. The applicant provides, his service record shows, and Defense Finance and Accounting Service (DFAS) provides:

- On 27 December 2006, he enlisted in the Army National Guard (ARNG)
- On 12 March 2024, he underwent an Informal Physical Evaluation Board Proceedings wherein the board found him physically unfit for duty
- On 2 April 2024, he received a Notification of Eligibility for Retired Pay for Non-Regular Service (15 Years), which notified him he had completed 15 years but fewer than 20 years of qualifying service and was eligible for retired pay upon application at age 60; he had 90 days to make an RCSBP Election
- On 11 April 2024, orders were published placing him on the Permanent Disability Retired List effective 12 May 2024 with a 70 percent disability rating

- On 10 May 2024, he completed a RCSBP Election Certificate, which shows his spouse is S- L-, he declined to make an election until age 60, his wife signed the form on 10 May 2024
 - On 12 May 2024, he was honorably transferred to the U.S. Army Reserve Control Group (Retired)
 - On 14 May 2024, he completed an Application for Retired Pay Benefits
 - On 14 May 2024, he completed a Data for Payment of Retired Personnel, which shows his spouse is S- L-, he elected not to participate in SBP, his spouse signed the form on 17 May 2024
 - On 15 May 2024, an ARNG Current Annual Statement was published showing he had 15 years creditable service for retired pay
 - On 8 May 2025, he completed a SBP Termination Request
3. On 11 July 2025, DFAS responded to a request for information stating his current SBP election is spouse effective 12 May 2024.

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 review based on public law, policy, and regulation. The evidence of record shows on 12 March 2024, he underwent Informal Physical Evaluation Board Proceedings wherein the board found him physically unfit for duty. On 2 April 2024, he received a Notification of Eligibility for Retired Pay for Non-Regular Service (15 Years) which notified him he had 90 days to make an election. On 10 May 2024, he completed a RCSBP Election Certificate, which shows he and his spouse declined to make an election until age 60. The applicant and his spouse declined SBP coverage on DD Form 2656 attesting to their desire not to participate in the SBP. Therefore, the Board determined the applicant should be disenrolled from the SBP effective 12 May 2024 with reimbursement of any monies paid into the insurance program.

BOARD VOTE:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
XXX	XXX	XX	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 and his spouse declined to participate in SBP effective 12 May 2024, and the declination was accepted and processed by the appropriate office in a timely manner. As a result, he was reimbursed any monies paid into the insurance program.

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. Public Law 95-397, the RCSBP, enacted 30 September 1978, provided a way for those who qualified for Nonregular (Reserve) 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 elected either Option B or C in any category of coverage, that election was 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 the RCSBP; RCSBP coverage automatically converts to SBP coverage upon retirement.
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. 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.
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. Public Law 106-398, enacted 30 October 2000, required written spousal consent for a Reserve service member to delay making an RCSBP election until age 60. The law is applicable to cases where 20-year letters have been issued after 1 January 2001. In

other words, failure to elect an option upon receipt of the 20-year letter results in the default election of Option C.

7. 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 (SBP Termination Request) 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.

8. "Gray area" retirees are members who served in the National Guard or Reserve, are qualified for retired pay, and have "retired" from their service (stopped drilling), but are not yet at the age where they can start receiving retired pay. The time between their "retirement" from the service and the date when they are eligible to begin receiving retired pay is the "gray area." The "gray area" applies even if the member is in the Retired Reserve.

//NOTHING FOLLOWS//