



**DEPARTMENT OF THE NAVY**  
BOARD FOR CORRECTION OF NAVAL RECORDS  
701 S. COURTHOUSE ROAD, SUITE 1001  
ARLINGTON, VA 22204-2490

[REDACTED]  
Docket No. 866-17  
JUL 25 2017

[REDACTED]  
Dear [REDACTED]

This is in reference to your application for correction of your deceased husband's naval record pursuant to the provisions of 10 USC 1552.

Although your application was not filed in a timely manner, the Board found it in the interest of justice to waive the statute of limitations and consider your application on its merits. A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 11 May 2017. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your deceased husband's naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. Per the Department of Defense Financial Management Regulation (DODFMR), Volume 7B, Chapter 42-46, a service member must elect or decline coverage under the Survivor Benefit Plan (SBP) before retired pay becomes payable. A declination of SBP coverage is irrevocable. Written spousal concurrence is required when the member elects to decline spouse coverage or provide the spouse with less than the maximum SBP coverage available. The signature of the spouse is witnessed to certify that the spouse knowingly signed the form.

On 17 November 1998, you and your spouse declined SBP spouse coverage and elected "child only" coverage. As a result, no premiums for spouse coverage were ever charged to your husband's retirement payments. Nothing in the DODFMR or guidance on the program indicates that when choosing "child only" SBP coverage, the benefit would "revert back" to spouse coverage after the child reaches age 22. You and your spouse were provided the opportunity to choose "spouse and child" coverage, which would have covered you and your daughters, and your husband would have been charged premiums accordingly. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

Regarding your request for a personal appearance, the Board determined that a personal appearance with or without counsel will not materially add to their understanding of the issue(s) involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

It is regretted that the circumstances of your case are such that favorable action cannot be taken at this time. You are entitled to have the Board reconsider its decision upon the submission of new and material evidence. New evidence is evidence not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

A solid black rectangular box used to redact the signature of the Executive Director.

Executive Director