



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

█
Docket No. 10350-23
Ref: Signature Date

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD ICO █
█

Ref: (a) Title 10 U.S.C. § 1552
(b) DoD 7000.14-R

Encl: (1) DD Form 149 w/attachments
(2) Subject's naval record

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed enclosure (1) with the Board for Correction of Naval Records (Board), requesting that his naval record be corrected to establish participation in the Survivor Benefit Plan (SBP) Spouse coverage.

2. The Board, consisting of █ reviewed Petitioner's allegations of error and injustice on 11 April 2024 and pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, relevant portions of Petitioner's naval record, and applicable statutes, regulations, and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, found that, before applying to this Board, he exhausted all administrative remedies available under existing law and regulations within the Department of the Navy. The Board made the following findings:

a. On 18 June 1980, Petitioner married █ and they had three children: █
█
█. Petitioner divorced █. Final Judgement and Decree with incorporated Agreement dated 8 February 1993 did not direct SBP Former Spouse coverage.

b. Petitioner transferred to the Fleet Reserve effective 1 July 1996 and automatically enrolled in SBP coverage. Petitioner contends he elected SBP Former Spouse and Children coverage.

c. On 2 July 1999, Petitioner married █ and acquired three stepchildren: █
█; █; and █.

d. Petitioner transferred to the Retired List effective 1 August 2005.

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[REDACTED]

e. On 26 September 2023, Defense Finance and Accounting Service (DFAS) issued Petitioner notification of adjustment to the SBP portion of his retired pay based on documentation he provided. The “adjustment is from spouse and child to child coverage to no beneficiary coverage with an effective date of August 1, 2007. As a result, [Petitioner’s] SBP cost has been changed to \$0.00.” The letter further stated Petitioner would receive a refund of \$9,011.38 for the time period of 10 August 2016 to 31 July 2023, however \$19,648.81 for the period of 1 July 1996 to 9 August 2016 was barred due to the statute of limitations.

CONCLUSION

Upon review and consideration of all the evidence of record, the Board finds the existence of an injustice warranting the following corrective action. The Board concluded Petitioner provided sufficient evidence to reflect his desire to participate in SBP Spouse coverage but failed to correctly notify DFAS of his current marriage within 1-year of nuptials in accordance with reference (b).¹ Although Petitioner did not complete the proper administrative requirements, the Board determined that under this circumstance, relief is warranted.

RECOMMENDATION

That Petitioner’s naval record be corrected, where appropriate, to show that:

Petitioner changed SBP election to Spouse and Children coverage, at the same level of coverage as previously elected within 1-year of marriage on 2 July 1999. Note: No waiver of unpaid premiums will be granted. DFAS will complete an audit of Petitioner’s records to determine premium amount due.

A copy of this Report of Proceedings will be filed in Petitioner’s naval record.

- 4. It is certified that a quorum was present at the Board’s review and deliberations, and that the foregoing is a true and complete record of the Board’s proceedings in the above-entitled matter.
- 5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(e)), and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of the reference, has been approved by the Board on behalf of the Secretary of the Navy.

4/17/2024



¹ Reference (b), any member who does not have an eligible spouse beneficiary when becoming eligible to participate in the SBP, who later marries, may elect to participate in the SBP, if the election is completed within one year of acquiring a spouse. However, the member may not reduce the level of SBP coverage, nor may child coverage be eliminated. Additionally, SBP Child coverage generally continues until the youngest unmarried child turns age 18 or age 22 and pursuing a full-time course of study in a recognized educational institution.