



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

██████████
Docket No. 2398-24
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD ICO ██████████,
XXX XX ██████████ USMC RET

Ref: (a) Title 10 U.S.C. § 1552
(b) DoD 7000.14-R, Vol 7B
(c) OASD Memorandum "Implementing and Procedural Guidance for Section 643 of PL 117-263, December 23, 2022, Survivor Benefit Plan Open Season"

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 reflect cancelled participation in the 2023 Survivor Benefit Plan (SBP) Open Season Enrollment.

2. The Board, consisting of ██████████, ██████████, and ██████████ reviewed Petitioner's allegations of error and injustice on 5 June 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. In accordance with reference (b), there are no regular recurring open season periods. Open seasons must be specifically prescribed by law. The most recent SBP open season, which was authorized by reference (b), began 23 December 2022, and ended 1 January 2024, allowing eligible members to participate or discontinue participation. The SBP Open Season allows for eligible members who, on 22 December 2022, are not currently in SBP or RCSBP to enroll. For a member who enrolls during the SBP Open Season, the law generally requires that the member will be responsible to pay retroactive SBP premium costs that would have been paid if the member had enrolled at retirement (or enrolled at another earlier date, depending on the member's family circumstances). Reference (c) specified members who elected to participate in an open enrollment had the ability to cancel within 30 days of making the election.

Subj: REVIEW OF NAVAL RECORD ICO [REDACTED],
XXX XX [REDACTED] USMC RET

- b. On 9 February 2008, Petitioner married [REDACTED].
- c. On 19 March 2013, Petitioner signed DD Form 2656, Data for Payment of Retired Personnel declining SBP coverage with proper spousal concurrence.
- d. Petitioner transferred to the Temporary Disability Retired List effective 30 June 2013.
- e. Petitioner transferred to the Permanent Disability Retired List effective 1 August 2017.
- f. On 7 July 2023, Defense Finance and Accounting Service (DFAS) notified Petitioner that his Letter of Intent to enroll in the 2023 SBP Open Season was received on 20 June 2023 and provided him with SBP Open Season Enrollment estimates of \$59.23 monthly and a buy-in premium of \$7,326.23.
- g. On 12 December 2023, DFAS notified Petitioner that his 2023 SBP Open Season Enrollment was processed with corrected premiums of \$139.19 monthly and a buy-in premium of \$17,330.73.
- h. On 21 December 2023, Petitioner notified DFAS of his inability to enroll in the 2023 SBP Open Season at the higher monthly premium and buy-in rates.
- i. On 3 January 2024, Petitioner requested to cancel his 2023 SBP Open Season Enrollment. DFAS notified Petitioner on 13 January 2024 that his request to cancel the Open Season Enrollment in the SBP was not valid due to not receiving the request for cancellation within 30 days of the enrollment date.
- j. On 16 February 2024, DFAS notified Congressman [REDACTED] office that Petitioner's request to cancel the Open Season Enrollment was received more than 30 days after his request to enroll on 30 October 2023. Therefore, his 2023 Open Season Enrollment would remain in effect.

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 cancel his 2023 SBP Open Season Enrollment. Although the proper administrative requirements were not completed, the Board determined that the untimely notification by DFAS on the premium and buy-in rate increases did not afford Petitioner the opportunity to cancel the coverage within 30 days of election. Therefore, the Board determined that under this circumstance, relief is warranted.

RECOMMENDATION

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

Subj: REVIEW OF NAVAL RECORD ICO [REDACTED],
XXX XX [REDACTED] USMC RET

Petitioner elected to cancel his 2023 SBP Open Season Enrollment within 30 days of making the election.

Note: The DFAS will complete an audit of Petitioner's pay records to determine Petitioner's pay entitlements.

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.

6/10/2024

