

DEPARTMENT OF THE NAVY

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

> Docket No. 3732-24 Ref: Signature Date

From: Chairman, Board for Correction of Naval Records

To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD

XXX-XX

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 _____l reviewed Petitioner's allegations of error and injustice on 2 October 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.

- b. On 14 February 1969, Petitioner married
- c. Petitioner transferred to the Retired Reserve with pay effective 1 August 2001. Petitioner's record reflects he declined participation in SBP.
- d. On 31 October 2023, Petitioner signed Survivor Benefit Plan (SBP) and Reserve Component Survivor Benefit Plan (RCSBP) Open Enrollment Election form electing Spouse only coverage base on full gross retired pay level of coverage and "Based on the estimate I received, I elect to submit a one-time full payment for the total amount of the "buy-in premium" due."
- e. On 14 December 2023, the Defense Finance and Accounting Service (DFAS) provided Petitioner SBP Open Season 2023 Enrollment Confirmation with a prospective monthly standard premium amount of \$259.79 and a one-time buy-in premium cost of \$77,325.59. Per the United States Postal Service Informed Delivery email, Petitioner received the notification on 6 January 2024.
- f. On 8 January 2024, the DFAS provided Petitioner with an invoice for SBP in the amount of \$239.04.
- g. On 22 January 2024, Petitioner wrote and faxed a letter to the DFAS requesting to cancel his SBP election due to the cost of the buy-in premium. Petitioner contends him and spouse rushed to meet the deadline to apply for SBP coverage but could not get any information. The letter was notarized indicating both Petitioner and spouse were physically present.
- h. On 11 March 2024, the DFAS denied Petitioner's request to cancel because the request was not received within 30 days of signing the Survivor Benefit Plan (SBP) and Reserve Component Survivor Benefit Plan (RCSBP) Open Enrollment Election form.

CONCLUSION

Upon review and consideration of all the evidence of record, the Board finds the existence of an error warranting the following corrective action. The Board concluded Petitioner provided sufficient evidence to cancel his 2023 SBP Open Season Enrollment. The Board surmised that Petitioner did not receive an SBP Open Enrollment cost estimate prior to enrolling in SBP Spouse coverage, thereby unaware of the exorbitant buy-in premium cost. Additionally, the Board found that Petitioner's request to cancel was submitted to the DFAS two weeks after receiving confirmation of enrollment, therefore determined that under this circumstance, relief is warranted.

RECOMMENDATION

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

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

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Note: The DFAS will complete an audit of Petitioner's pay records to determine amounts due, if any.

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 titled 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.

