



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

[REDACTED]  
Docket No. 6922-24  
Ref: Signature Date

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

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

Ref: (a) Title 10 U.S.C. § 1552  
(b) DoDFMR, 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 in a timely manner.

2. The Board, consisting of [REDACTED], [REDACTED], and [REDACTED] reviewed Petitioner's allegations of error and injustice on 11 December 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 enrolled 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

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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 30 January 1971, Petitioner married [REDACTED].

c. On 24 July 1997, Petitioner signed DD Form 2656, Data for Payment of Retired Personnel and elected not to participate in SBP with spouse concurrence.

d. Petitioner transferred to Retired List effective 1 November 1997.

e. On 29 December 2023, Petitioner signed Survivor Benefit Plan (SBP) and Reserve Component Survivor Benefit Plan (RCSBP) Open Enrollment Election, electing Spouse only coverage base on full gross retired pay level of coverage and chose enrollment premium option "[b]ased on the estimate I received, I elect to submit a one-time full payment for the total amount of the "buy-in premium" due." SBP Spouse only premium deductions began effective this date.

f. On 26 March 2024, the Defense Finance and Accounting Service (DFAS) issued Petitioner 2023 SBP Open Season enrollment confirmation.

g. On 26 April 2024, Petitioner requested that the DFAS to cancel his 2023 SBP Open Season enrollment indicating, "[b]ased on the cost to enroll in the program I choose not to. It is more expensive than I anticipated. I simply can't afford it. Please cancel my application and send me the original application with my signature please. I wanted to know the cost before I decided to enroll. Unfortunately, I just received the letter today, 20 Apr 2024 explaining the cost."

h. The DFAS denied Petitioner's request to cancel his 2023 SBP Open Season enrollment with a letter stating, "[w]e received your request to cancel your Open Season enrollment in the Survivor Benefit Plan (SBP)...we have found that your request to cancel your enrollment is not valid...We did not receive your cancellation within 30 days of your signature on the enrollment..."

i. On 14 November 2024, Petitioner and spouse signed SBP Affidavit before a notary witness requesting to decline SBP coverage.

## 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. Although the proper administrative requirements were not completed, the Board determined that the untimely notification by the DFAS on the premium and buy-in rate 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.

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## 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.

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.

1/3/2025

Deputy Director

Signed by: [REDACTED]