



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

██████████
Docket No. 6975-24
Ref: Signature Date

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

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

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 ██████████, ██████████, and ██████████ reviewed Petitioner's allegations of error and injustice on 4 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 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.

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- b. On 8 May 1965, Petitioner married [REDACTED].
- c. On 1 January 1988, Petitioner transferred to the Retired List and elected not to participate in SBP coverage.
- d. On 15 November 2023, Petitioner signed Letter of Intent (LOI) to Enroll During the SBP Open Season with the intention to enroll in SBP Spouse only coverage at the full gross pay level of coverage.
- e. On 14 December 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 he received, chose to submit a one-time full payment for the total amount of the “buy-in premium” due.
- f. On 15 May 2024, the Defense Finance and Accounting Service (DFAS) issued Petitioner SBP Open Season 2023 Enrollment Confirmation for SBP Spouse only coverage at the full gross pay level of coverage with an effective date of 1 January 2024. The enrollment confirmation included a prospective monthly standard premium of \$0.00 and one-time “buy-in premium” estimate of \$158,585.58.
- g. On 30 May 2024, the DFAS deemed Petitioner’s request to cancel SBP enrollment invalid because the request to cancel was not received within 30 days of signing the SBP enrollment form.
- h. On 11 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 injustice warranting the following corrective action. The Board concluded Petitioner provided sufficient evidence to cancel his 2023 SBP Open Season Enrollment. Although Petitioner did not complete the proper administrative requirements, the Board surmised 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.

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.

12/18/2024

