



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

Docket No. 7889-24  
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD ICO [REDACTED]  
[REDACTED] USMC (RETIRED)

Ref: (a) Title 10 U.S.C. § 1552  
(b) DoDFMR, Vol 7B

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 her naval record be corrected to reflect declined participation in Survivor Benefit Plan (SBP) and receive premium refund.

2. The Board, consisting of [REDACTED], [REDACTED], and [REDACTED] reviewed Petitioner's allegations of error and injustice on 15 January 2025 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 Subject'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, she 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), SBP elections must be made prior to retired pay becoming payable and the election to participate in or decline SBP is irrevocable. Elections for child only SBP coverage, reduced level of coverage and declined coverage require spouse concurrence. If not all requirements for an election needing the spouse's concurrence have been satisfied prior to retirement, for whatever reason, full spouse costs, and coverage will be implemented, regardless of any request by the member to do otherwise. Any change in SBP election subsequent to retirement will be done through an administrative correction of records as permitted by law.

b. On 9 June 2017, Petitioner married [REDACTED] and had one child: [REDACTED] born on [REDACTED].

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[REDACTED] USMC (RETIRED)

c. On 30 November 2021, Petitioner's spouse signed Written Stipulation for Judgement [Dissolution – With Minor Children] and Petitioner signed on 8 December 2021; agreement to SBP coverage was not entered.

d. On 15 March 2022, Petitioner signed DD Form 2656, Data for Payment of Retired Personnel and elected for SBP Child only coverage based on the full gross retired pay level of coverage. However, the form did not have Petitioner's spouse concurrence.

e. On 15 March 2022, Petitioner signed NAVMC 118(11), Administrative Remarks indicating, "I have been counseled concerning SBP and fully understand the automatic enrollment and future enrollment provisions on the Plan."

f. On 21 April 2022, Petitioner divorced [REDACTED]. Judgment of Dissolution incorporated Written Stipulation for Judgement [Dissolution – With Minor Children]; SBP Former Spouse coverage was not ordered.

g. Petitioner transferred to the Temporary Disability Retired List (TDRL) effective 30 April 2022 and SBP Spouse and Child premium charges began.

h. On 12 September 2023, Petitioner signed DD Form 2656-6, Survivor Benefit Plan Election Change Certificate and requested to suspend coverage due to divorce.

i. On 23 January 2024, the Defense Finance and Accounting Service (DFAS) responded to Petitioner's request with the following, "[w]e have received your recent correspondence but cannot take action at this time because additional information is needed...we need the full court order signed by the Judge with the settlement agreement that is stated..."

j. On 2 March 2024, Petitioner signed another DD Form 2656-6, Survivor Benefit Plan Change Certificate and requested to suspend coverage due to divorce. On 10 October 2024, the DFAS responded to Petitioner's request with the following, "[w]e have received your recent correspondence but cannot take action at this time because additional information is needed...please submit divorce decree with judge's signature..."

## 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 elected SBP Child only coverage before transferring to the TDRL, thereby ineligible to discontinue coverage until she is within 25 to 36 months after receiving retired pay effective 30 April 2022. Although, the Petitioner did not complete the proper administrative requirements, the Board determined Petitioner was divorced at the time of retirement, the divorce decree did not direct SBP Former Spouse coverage, and she has not remarried. Therefore, the Board determined that under these circumstances, partial relief is warranted.

Subj: REVIEW OF NAVAL RECORD ICO [REDACTED]  
[REDACTED] USMC (RETIRED)

## RECOMMENDATION

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

Petitioner elected SBP Child only coverage after her divorce was finalized on 21 April 2022 but prior to transferring to the TDRL effective 30 April 2022.

Note: The DFAS will complete an audit of Petitioner's pay records to ensure the proper premium amount is assessed.

The part of Petitioner's request for corrective action that exceeds the foregoing is denied in accordance with reference (b). Additionally, Petitioner is currently in the window to terminate SBP Child only coverage on her own by submitting DD Form 2656-2, Survivor Benefit Plan (SBP) Termination Request to the DFAS.

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.

1/24/2025

