



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

██████████
Docket No. 8571-24
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD ICO ██████████, USN RET,
██████████

Ref: (a) Title 10 U.S.C. § 1552
(b) DoD 7000.14-R FMR Volume 7B, Chapter 43

Encl: (1) DD Form 149 w/attachments
(2) Subject's Naval record

1. Pursuant to the provisions of reference (a), Subject's widow, hereinafter referred to as Petitioner, filed enclosure (1) with the Board for Correction of Naval Records (Board), requesting that Subject's naval record be corrected to show that she was eligible to receive Survivor Benefit Plan (SBP) annuities as Subject's widow.

2. The Board, consisting of ██████████ reviewed Petitioner's allegations of error and injustice on 6 March 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. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice finds as follows:

a. On 17 July 1979, Subject entered active duty.

b. On 8 June 1999, Subject signed DD Form 2656, Data for Payment of Retired Personnel and elected coverage for an insurable interest to him at the full gross retired pay level of coverage. The name of the insurable interest beneficiary was Petitioner. The form was not signed by a Witness until 10 June 1999.

c. Subject transferred to Fleet Reserve with an Honorable character of service and was issued a DD Form 214, Certificate of Release or Discharge from Active Duty, for the period of 10 November 1987 to 31 July 1999 upon having sufficient service for retirement.

d. The Defense Manpower Data Center listed the following dependents: [Petitioner] (spouse) with a date of marriage of 19 August 2000.

e. Subject's Retiree Account Statement (RAS) for 8 March 2016 reflects premium payment for SBP Spouse coverage.

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f. The Defense Finance and Accounting Service (DFAS) HUNT system shows that Original Election-Auto with a date of 1 August 1999. On 1 December 2022, Current Election-NIP naming Petitioner as the beneficiary with a date of 31 July 1999.

g. On 15 April 2023, Subject passed away.

h. On 5 June 2024, Defense Finance and Accounting Service advised Congressman Kiggins office that “[t]his is in reply to your inquiry on behalf of [Petitioner], widow of [Subject], U S Navy (Ret) Your inquiry pertains to [Petitioner's] entitlement to a Survivor Benefit Plan (SBP) annuity from [Subject's] military retired pay account... We determined that [Subject] elected to participate in SBP with Natural Interest Person (NIP) coverage in 1999. When [Subject] married [REDACTED], the person he designated as his NIP beneficiary, he took no action to change his NIP coverage to Spouse SBP coverage within a one year of his marriage. Therefore, he had valid NIP SBP coverage at death but had only paid Spouse SBP premiums due to automatic coverage. NIP coverage premiums are substantially more expensive than Spouse coverage premiums. Our audit of [Subject's] SBP account shows that he owed for unpaid SBP premiums, resulting in a debt for \$32,365 87. that must be paid before [Petitioner] can begin to receive SBP annuity pay.”

“SBP Annuity Established. We established [Petitioner's] SBP annuity on April 30, 2024, with an effective date of April 16, 2023. Her current gross monthly annuity is \$945. [Petitioner] is entitled to a retroactive SBP payment of \$12,540 for April 16, 2023, through May 31, 2024. We have placed the SBP unpaid premium balance on her SBP annuity account in the gross amount of \$32,365 87. In order for [Petitioner] to receive the SBP annuity, we must collect the unpaid SBP premiums... [Petitioner] may petition the Board for the Correction of Naval Records (BCNR) to change [Subject's] record to show that he elected Spouse SBP coverage in a timely manner. We do not have the authority to change his military retired pay account without authorization from the BCNR...”

CONCLUSION

Upon review and consideration of all the evidence of record, and especially in light of the contents of reference (b),¹ the Board finds the existence of an injustice warranting the following corrective action. The Board concluded that Subject originally elected to participate in SBP with NIP coverage in 1999. However, Subject was erroneously auto enrolled in Spouse coverage even though he was not married on the date of retirement. It is unclear if he was aware that he was auto enrolled in Spouse coverage. Subject and Petitioner married on 19 August 2000, however he did not change the election from NIP to Spouse. Subject paid premiums for Spouse coverage until an adjustment was made, seemingly in December 2022 to correct his election back to NIP, with Subject then paying the

¹ In the case of a member electing a standard SBP annuity, the member must make such election before retired pay becomes payable, or if there is no eligible beneficiary at that time, within 1 year of acquiring an eligible beneficiary. All elections are irrevocable once the member is placed on the retired list, unless otherwise provided by law. A member may make an election for a natural person with an insurable interest [NIP] only when there is no eligible spouse or dependent child(ren). Changes in Election and Coverage. 6.1 Later-Acquired Spouse and/or Child. A member who acquires a new spouse and/or child after retirement must make an election within 1 year of the event with the exception that there is no time restriction on the election period for a change under subparagraph 6.1.2.5... 6.1.2. If, on date of retirement the member... 6.1.2.5. Has elected coverage for a former spouse or former spouse and child or has elected coverage for a natural person with an insurable interest; the member may later change the election to spouse and/or child, if not otherwise prohibited. See paragraph 6.2. The member is not required to change the election to spouse and/or child; however, if such a change is made, it permanently terminates the eligibility of the former spouse or the natural person with insurable interest. It is not necessary that maximum level coverage be elected for the spouse and/or child. See subparagraph 6.2.2 and paragraph 6.3, for additional information concerning changes in former spouse coverage.

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higher premiums. The Board believed that Subject may have been unaware that he was required to change his election from NIP to Spouse, especially when in his case, the beneficiary remained the same and he was already paying Spouse premiums. The Board agreed Subject originally elected to cover Petitioner as NIP, at a substantially higher premium, showing that his intention was to take care of her and that Subject would have changed his election to Spouse coverage vice NIP if he was aware that Petitioner would incur a debt due to his inaction. Although Subject did not complete the proper administrative requirements, the Board determined that under this circumstance, relief is warranted.

RECOMMENDATION

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

Subject elected SBP NIP coverage naming [REDACTED] as beneficiary at the full retired pay level of coverage prior to transferring to the Fleet Reserve effective 1 August 1999.

Subject changed SBP election from "NIP" to "Spouse" coverage naming [REDACTED] as the beneficiary, at the same level of coverage as previously elected within 1-year of marriage on 19 August 2000.

Note: The DFAS will complete an audit of Subject's pay records to determine Petitioner's SBP annuity entitlement.

A copy of this report of proceedings will be filed in Subject'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.

3/10/2025

[REDACTED]