



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

[REDACTED]
Docket No. 9091-24
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD ICO [REDACTED], USNR RET,
XXX-XX-[REDACTED]

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 Survivor Benefit Plan (SBP) Spouse only coverage based on the full gross retired pay level of coverage.

2. The Board, consisting of [REDACTED], [REDACTED], and [REDACTED] reviewed Petitioner's allegations of error and injustice on 20 November 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 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, 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), a member who is participating with spouse or spouse and child coverage and who does not have an eligible spouse beneficiary may, upon remarriage: resume coverage, increase the level of coverage up to and including full retired pay, or elect not have spouse coverage resume. Unless the member elects not to cover the new spouse with 1 year after marriage, spouse coverage automatically resumes at the first anniversary year.

b. Reference (c) specified eligible members that were already participating in SBP or Reserve Component Survivor Benefit Plan as of 22 December 2022 were not eligible to change their SBP base amount or add beneficiaries during the 2023 Open Enrollment Season.

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c. On 27 March 1969, Petitioner married [REDACTED] and divorced on 11 July 1989. Decree of Dissolution of Marriage did not order SBP Former Spouse coverage.

d. On 20 July 1996, Petitioner married [REDACTED].

e. On 31 August 2000, Petitioner earned 20 qualifying years of service for non-regular retirement.

f. On 21 November 2003, Petitioner transferred to the Retired Reserve with pay. Petitioner issued Notification of Eligibility (NOE) to Receive Retired Pay at Age 60 and Participate in the Reserve Component Survivor Benefit Plan (RCSBP) on 11 December 2003.

g. On 29 January 2010, Petitioner requested the Defense Finance and Accounting Services (DFAS) issue a refund of SBP premiums paid due to [REDACTED] medical situation. On 4 July 2010, [REDACTED] passed away.

h. On 29 March 2014, Petitioner married [REDACTED]. Petitioner's SBP Spouse coverage resumed at a reduced retired pay level of coverage with [REDACTED] as his beneficiary on 29 March 2015.

i. On 9 April 2015, Petitioner signed and submitted DD Form 2656, Data for Payment of Retired Personnel electing SBP Spouse only coverage at the full gross retired pay level of coverage.

j. On 31 August 2019, Petitioner signed DD Form 2656-6, Survivor Benefit Plan Election Change Certificate and requested to "Resume existing level of coverage for my new spouse" but also selected to "Suspend Coverage" in Section IV-Requested Change to Coverage and "Full Retired Pay" in Section V-Level of Coverage.

k. On 29 December 2023, the DFAS received Petitioner signed Survivor Benefit Plan (SBP) and Reserve Component Survivor Benefit Plan (RCSBP) Open Enrollment Election form requesting to enroll in SBP Spouse only coverage based on the full gross retired pay level of coverage.

l. On 8 November 2024, Petitioner and spouse signed SBP Affidavit before a notary witness requesting SBP Spouse only coverage based on the full gross retired pay level of 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 that at the time of Petitioner's transfer to the Retired Reserve with pay, he was enrolled in SBP Spouse only coverage at the reduced gross retired pay level of coverage with his second spouse as the beneficiary. The second spouse passed away and subsequently Petitioner remarried and attempted to resume SBP Spouse only coverage for his third spouse at the full gross retired pay level of coverage as authorized by reference (b). However, Petitioner's request to resume

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coverage at the full gross retired pay level of coverage was submitted 10 days late. The Board also determined that Petitioner was not authorized to change the level of coverage via the 2023 SBP Open Enrollment Season per reference (c). Although Petitioner did not complete the appropriate administrative requirements, the Board surmised that Petitioner was not aware of the prescribed 1-year period to change the level of coverage. Therefore, the Board determined that under these circumstances, relief is warranted.

RECOMMENDATION

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

Petitioner elected to resume SBP Spouse only coverage naming [REDACTED] as beneficiary at the full gross retired pay level of coverage within 1-year of their marriage on 29 March 2014.

Note: The DFAS will complete an audit of Petitioner's pay records to determine if premiums are due. No waiver of unpaid premiums will be granted.

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.

12/6/2024

[REDACTED]
Deputy Director

Signed by: [REDACTED]