



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

[REDACTED]
Docket No. 9503-24
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD ICO [REDACTED], USN RET,
[REDACTED]

Ref: (a) Title 10 U.S.C. § 1552
(b) DoD 7000.14-R FMR Volume 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 show that Petitioner cancelled participation in the 2023 Survivor Benefit Plan (SBP) Open Season Enrollment in a timely manner and that all premiums were returned.

2. The Board, consisting of [REDACTED] and [REDACTED] reviewed Petitioner's allegations of error and injustice on 19 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 Petitioner'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 [REDACTED], Petitioner's first dependent child was born. On 28 June 1973, Petitioner got married. On [REDACTED], Petitioner's second dependent child was born. On [REDACTED], Petitioner's third dependent child was born. On 25 May 1989, Petitioner and his spouse divorced. On 26 June 1990, Petitioner got married.

b. In accordance with reference (b), Regular Recurring Open Season for Enrollment and Discontinuation. From time to time, Congress approves limited open enrollment periods during which time persons who are not participating are allowed to enroll in the plan and persons who are participating are allowed to disenroll. There are no regular recurring open season periods. Open seasons must be specifically prescribed by law, and each open season is unique to the law

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establishing the open season. In the absence of such a legislatively prescribed period, members may only enroll in the plan as specified in this chapter.

The most recent RCSBP open season, which was authorized by Section 643 of PL 117-263, began December 23, 2022, and ended at midnight (EST) on January 1, 2024, and allowed eligible members to participate or discontinue participation. For this open season, an “eligible member was a retired member or former member who, on December 22, 2022, was entitled to retired pay, or would be entitled to retired pay but for the member or former member being under the eligibility age to receive retired pay.”

c. In accordance with reference (c), Elections to Enroll in SBP by Members Entitled to Retired Pay. To make an election to enroll in SBP members or former members who are receiving retired pay must submit a “Letter of Intent to Enroll During the SBP Open Season (hereinafter “LOI”) to the appropriate agency identified below. A template LOI should be completed by the member and forwarded to the appropriate agency listed below. After receiving a LOI from a member, the agency below will calculate the one-time buy-in premium and inform the member or former member of the amount that the member will be required to pay. Members or former members who wish to enroll in SBP after notification of the amount of their one-time buy-in premium must submit an “SBP Open Season Enrollment Form” to the agency below. The “SBP Open Season Enrollment Form” and the template LOI are in Appendix II of this guidance and at <https://www.dfas.mil/sbpopenseason23>. The open season enrollment is not effective until the “SBP Open Season Enrollment Form is received by the appropriate agency at the addresses listed below...”

“Payment of One-Time Buy-In Premiums. Eligible members who have made an election to participant in the SBP during the open season period and have submitted an election form will receive an invoice from DFAS [Defense Finance and Accounting Service (DFAS)] with instructions for submitting one-time buy-in premium payments.

Elections to enroll that are received after the end of the open season on January 1, 2024, cannot be honored.”

“Elections to Discontinue participation in SBP from members entitled to retired pay. To make an election to discontinue participation in SBP members or former members must complete the discontinuation form in Appendix II of this guidance or at <https://www.dfas.mil/sbpopenseason23>. To be effective, the signature of the member and of all persons who are required to concur in the election to discontinue must be either (a) notarized or (b) witnessed by an SBP counselor. Discontinuation forms must be submitted to the appropriate agency at the addresses identified in paragraph 1a above.”

“Elections to discontinue existing coverage that are received after the end of the open season at midnight Eastern Standard Time on January 1, 2024, cannot be honored.”

d. Petitioner was transferred to the Fleet Reserve with an Honorable character of service and was issued a Certificate of Release or Discharge from Active Duty (DD Form 214) for the period of 4 April 1989 to 31 March 1995 upon having sufficient service for retirement.

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e. On 20 October 2023, Petitioner signed a Letter of Intent (LOI) to Enroll During the SBP Open Season (December 23, 2022, to January 1, 2024). Petitioner enrolled in Spouse Only at the Full gross retired pay.

f. On 8 December 2023, Petitioner signed with spousal concurrence Survivor Benefit Plan (SBP) and Reserve Component Survivor Benefit Plan (RCSBP) Open Enrollment Election. Petitioner enrolled in Spouse Only at the Full gross retired pay.

g. On 18 January 2024, DFAS notified Petitioner that “[y]our enrollment form for the 2023 Survivor Benefit Plan Open Season was received and processed. You previously indicated that you wish to pay the “buy-in premium” over time by establishing a Voluntary Payment Plan (instead of making a one-time full payment for the total amount of the “buy-in premium”. The election reflected in the attached Enrollment Confirmation is based on the information you previously submitted. Please review to ensure your election is properly reflected on the attached enrollment confirmation. If it is not, please notify DFAS immediately because your “buy-in premium” and monthly cost may be incorrect and need to be recalculated.”

“Enrollment Data: Name: [Petitioner] USN (Ret), Effective Date of Enrollment (Date SBP coverage starts): 01 -Apr-1995, Voluntary Payment Plan Due Date: 18-Feb-2024, Partial Payment or Installment Payment Due Date (if applicable): SBP Coverage Type: Spouse, Level of Coverage: Full, Cost Base Amount = \$2,895.00, Prospective Monthly Premium = \$188.18 (SBP Monthly Premium Cost), Total Buy-In Premium with Installment Interest = \$79,496.64.”

“Huy-III Premium Partial Payment Amount Due within 30 Days (if applicable) = \$ 1,498.54. Deduction from Retired Pay.”

“Buy-In Premium Partial Payment Amount Due within 30 Days (if applicable) = \$ 63,211.17. Your first Direct Installment Payment is due for payment, no later than 18 February 2024.”

h. On 25 January 2024, Petitioner notified To Whom It May Concern that “I wish to not enroll in SBP based on the back pay amount of \$79,496.64. I need this money to live. I will explain below. Please cancel or terminate my SBP enrollment. I will also upload a DD- Form 2656-2 as per instructions from your customer service via telephone today.”

“I submitted my intent to enroll in SBP on 10-20-2023 Ticket 202310200561 and was waiting for a letter explaining the cost.

I waited for more than a month and received no letter. I called DFAS and was told the letter would be coming soon.

I called DFAS again on about December 7, 2023, because the open enrollment deadline was only a few weeks away. I was told that the monthly cost would be about \$188.00. I was also told that I should go ahead and submit my application because the deadline was in about two weeks.

December 8, 2023, I submitted my application Ticket 202312090161.

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As of today, I have not received letter from DFAS explaining that a change has been made to my retired pay account. I went online to my DFAS account and found the back pay requirement. I received an email yesterday explaining the back pay requirement was \$79496.64 and would be taken in payments from my Retired pay account.”

i. On 25 January 2024, Petitioner signed a Survivor Benefit Plan (SBP) Termination Request (DD Form 2656-2) with spousal concurrence.

j. On 8 February 2024, DFAS notified Petitioner that “[w]e received your request to cancel your Open Season enrollment in the Survivor Benefit Plan (SBP). After review, we have found that your request to cancel your enrollment is not valid.

What you need to know. Once a member submits an open enrollment election to participate, the member may cancel the election by notifying DFAS in writing within 30 days of making the election. To be effective, the cancellation notice must be in writing, must be signed and dated (to include notarized signatures of beneficiaries who are required to concur in the election to discontinue), and must be received by DFAS within 30 days of the date of the member's signature on the Open Season enrollment form. Elections that are not cancelled within the time periods described above become final and irrevocable and will result in the collection of required premiums.

What you need to do. Please see below for the reason why your request to cancel your SBP Open Season enrollment is not valid. We did not receive your cancellation notice within 30 days of your signature on the enrollment form.”

k. On 23 February 2024, Petitioner notified To Whom It May Concern that “I received your letter of February 8, 2024, denying my request to correct the error of my SBP enrollment. I wish to appeal this decision based on the facts below. Based on the information believe that DFAS should honor my request to cancel SBP enrollment.

The DFAS did not as required send a cost analysis of SBP to me subsequent to my letter of intent to enroll in SBP. I filed the letter of intent in October 2023 and DFAS did not send the analysis at all. I have still not received this document.

I waited as long as I could wait because the deadline was approaching. I called several times and was told different things by different customer service persons. Finally, during one of these calls the person I spoke with did tell me that monthly premium of SBP but did not tell me about the Buy-In premium. Because of this I submitted the enrollment application.

I found out about the Buy-In premium when I received your letter of January 18, 2024. I received this letter on January 25, 2024, and immediately called and sent a letter that day requesting cancellation of SBP.

I missed the 30-day window only because DFAS did not send the cost analysis.”

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1. On 18 November 2024, BCNR emailed Petitioner requesting signed SBP Affidavit and Divorce Decree from former spouse, but Petitioner failed to respond within 30 days.

m. On 12 December 2024, DFAS HUNT system listed SBP coverage for spouse only in the amount of \$192.88.

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 show his desire to cancel his 2023 SBP Open Season Enrollment prior to the deadline. Although Petitioner did not complete the proper administrative requirements in time, 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 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.

4/4/2025

[REDACTED]