



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

Docket No. 9541-24
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD ICO
XXX-XX-██████████

Ref: (a) Title 10 U.S.C. § 1552
(b) DoD 7000.14-R FMR Volume 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 his naval record be corrected to show that Petitioner designated his spouse as an eligible beneficiary in the Survivor Benefit Plan (SBP) within a year of his marriage.

2. The Board, consisting of [REDACTED] reviewed Petitioner's allegations of error and injustice on 27 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 12 May 1990, Petitioner got married (██████████). On 17 August 1996, Petitioner's first dependent child was born ██████████. On 8 October 1997, Petitioner's second dependent child was born ██████████. On 31 October 1998, Petitioner's third dependent child was born ██████████. On 18 September 1999, Petitioner's fourth dependent child was born ██████████. On 2 August 2004, Petitioner got divorced.

b. Reference (b) eligible beneficiaries under the RCSBP include spouse, child, former spouse, and natural person with an insurable interest. Members eligible to participate in RCSBP may elect coverage in one of the following coverage categories: spouse; spouse and child; child only; former spouse; former spouse and child; natural person with an insurable interest; or Special Needs Trust (SNT).

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Any member who is notified of his or her completion of the years of service required for retired pay eligibility for non-regular retirement may elect to participate in RCSBP before the end of the 90-day period. A member who is married or has a dependent child, and who receives notice of eligibility for retired pay, after January 1, 2001, is automatically an immediate participant in RCSBP unless the member elects (with spousal concurrence, if required) not to participate or to defer the decision or delay coverage before the end of the 90-day period. See subparagraph 5.2.7.

CHANGES IN ELECTION AND COVERAGE. In some circumstances, a member may make a change in RCSBP election or coverage after first becoming eligible for RCSBP (at the time of receiving notice of eligibility (NOE) of meeting service requirements for a non-regular retirement) and making an initial election. See DoDI 1332.42, Section 4.4... Marriage Where No Spouse at NOE. A member who had no eligible spouse at NOE (and was not required to elect former spouse coverage) and later marries may elect RCSBP spouse coverage as follows. Member Participating. If the member elected to participate in RCSBP at NOE (i.e., elected Option B or C for a child or insurable interest), the member may elect to add spouse coverage to child coverage or terminate an insurable interest beneficiary coverage in favor of spouse coverage. The election must be made on a DD Form 2656-6 and received within one year of the marriage. The level of coverage cannot be changed. The member is not required to have the concurrence of the new spouse to elect not to add spouse coverage. Failure to make the election within one year terminates eligibility for that spouse and any subsequent spouse.

c. On 8 April 2006, Commanding Officer, Navy Reserve Personnel Center notified Petitioner that “[y]ou have completed all requirements to receive retired pay at age 60 under the provision of references (a) [10 U.S.C. 1223] and (b) [BUPERSINST 1001.39E]. Eligibility may not be denied or revoked unless it resulted directly from fraud or misrepresentation on your part. The number of years of creditable service and the amount of retired pay, however, may be adjusted for errors. Enclosure (1) is used to document your initial eligibility. An updated Statement of Service for Navy Reserve Retirement will be provided on your retirement or discharge.

You are now also entitled to participate in the RCSBP. Enclosure (2) provides pertinent information and an election certificate. Your completed election certificate must be submitted to this command (N32), within 90 days of receipt of this letter. Your election is irrevocable except upon certain changes in dependent status.”

d. On 8 April 2006, Naval Reserve Personnel Center issued Petitioner a Statement of Service for Naval Reserve Retirement that listed the following: Qualifying Years of Service: 20years, Total Retirement Points Creditable for Pay: 6018, and Eligible for Notification of Eligibility (Noe) For Retired Pay: 16 October 2005.

e. On 1 August [REDACTED], Petitioner got married [REDACTED]

f. On 26 May 2012, Commander, Navy Personnel Command notified Petitioner that “Per references (a) [10 U.S.C. 10154] and (b) [10 U.S.C. 12774(a)], the Secretary of the Navy approved your request and authorized your transfer to Retired Reserve status effective 1 July 2012.

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Upon your submission of application per the guidelines of references (c) [BUPERSINST 1001.39F], you will be eligible under reference (d) [10 U.S.C. 1223] for retired pay benefits, to include medical benefits at age 60.”

g. On 13 April 2023, Commander, Navy Personnel Command (PERS-9) notified Petitioner that “[p]er reference (a) [10U.S.C. § 12731(a)] the Secretary of the Navy approved your application for retired pay for nonregular service. Your initial date of eligibility for retired pay is 14 September 2023. Per your request, your authorization to retired pay is effective 14 September 2023.”

Per references (b) [10 U.S.C. § 12732] and (c) [10U.S.C. § 12733], computation of your retired pay under reference (d) [10U.S.C. § 12739] will be based on 26 years of qualifying service, 06492 retirement points and a pay entry base date of 17 October 1985.

h. On 13 April 2023, Commander, Navy Personnel Command (PERS-912) notified Petitioner that “[p]er references (a) [10 U.S.C. Chapter 1223], [10 U.S.C. Chapter 73, subchapters II and III] through (c) [DoD Financial Management Regulation, Volume 7B, Chapter 42], on April 8, 2006, we sent the subject member a Notification of Eligibility (NOE) letter to receive Retired Pay at/or beyond the age of 60 in addition to the Reserve Component-Survivor Benefit Plan (RC-SBP) election certificate. PERS-912 did not receive an election certificate from the member as was requested in the correspondence on the aforementioned date.

Per references (a) through (c), in the NOE, the member was informed of the 90 days from the date of receipt response to PERS-912 requirement. If no response is received from the member as requested the member is then automatically enrolled in the RC-SBP plan. Therefore, as of July 7, 2006, the member was enrolled in an immediate RC-SBP annuity for his/her child(ren). Covered child, [REDACTED]

i. On 29 March 2023, Petitioner signed a Data for Payment of Retired Personnel (DD Form 2656) and elected Spouse only coverage at the full gross pay level of coverage.

j. On [REDACTED] September [REDACTED], Petitioner turned 60 years old.

k. On 17 August 2024, DFAS notified Petitioner that “We have received your recent correspondence but cannot take action at this time because additional information is needed.” “A Notification of Eligibility letter along with the RCSBP election certificate was sent to you with a response needed within 90 days of receipt. Since nothing was received you were automatically enrolled in immediate RCSBP for child. Request for spouse coverage has to be received before the 1-year anniversary of the marriage.”

“What you need to do. Submit the following supporting document(s).”

l. On 22 November 2024, Petitioner and spouse signed SBP Affidavit indicating that they desired Petitioner’s SBP election to be changed to reflect that he elected SBP Spouse only coverage. Petitioner indicated that he “received insufficient SBP information/counseling prior to my date of retirement.”

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m. On 24 March 2025, DFAS HUNT system listed RCSBP coverage for child only in the amount of \$25.93.

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 on 8 April 2006, Petitioner received his NOE and was informed of his entitlement to participate in the RCSBP. At that time, Petitioner had no spouse but had eligible children. PERS-912 did not receive his RCSBP election certificate within 90 days of receipt of the NOE, therefore Petitioner was auto enrolled in RCSBP child coverage. Petitioner married his spouse on [REDACTED] and was transferred to Retired Reserve status effective 1 July 2012. In accordance with reference (b), Petitioner was eligible to cover his spouse under RCSBP if he elected to do so within the first year of marriage. The Board agreed that Petitioner submitted evidence that he intended to cover his spouse in SBP. Although Petitioner did not complete the proper administrative requirements, the Board determined that under these circumstances, relief is warranted.

RECOMMENDATION

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

Petitioner changed RCSBP election from "Children" coverage to "Spouse and Children" coverage naming his spouse, [REDACTED], and children, as beneficiaries within 1-year of marriage on [REDACTED]

Petitioner elected SBP Spouse only coverage prior to transferring to the Retired Reserve with pay effective [REDACTED]

Note: 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.

4/7/2025

