



DEPARTMENT OF THE AIR FORCE
WASHINGTON, DC

JUL - 2 1998

Office of the Assistant Secretary

AFBCMR 98-00173

MEMORANDUM FOR THE CHIEF OF STAFF

Under the authority of Section 1552, Title 10, United States Code, Air Force Instruction 36-2603, and having assured compliance with the provisions of the above regulation, the decision of the Air Force Board for Correction of Military Records is announced, and it is directed that:

The pertinent military records of the Department of the Air Force relating to [REDACTED], be corrected to show that on 20 May 1997, he elected to change his Survivor Benefit Plan election from "spouse and child coverage" to "former spouse coverage" naming [REDACTED] as beneficiary, based on full retired pay.

Raymond H. Weller

RAYMOND H. WELLER
Chief Examiner
Air Force Board for Correction
of Military Records



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AFBCMR 98-00173

MEMORANDUM OF CONSIDERATION OF APPLICATION BEFORE THE AFBCMR

SUBJECT: [REDACTED]

Having carefully reviewed this application, we agree with the recommendation of the Air Force and adopt the rationale expressed as the basis for our decision that the applicant has been the victim of either an error or an injustice. Therefore, under the authority delegated in AFI 36-2603, the applicant's records will be corrected as set forth in the accompanying Memorandum for the Chief of Staff signed by the Executive Director of the Board or his designee.


Panel Chair

Attachment:
Ltr, AFPC/DPPTR, dtd 21 May 98



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS AIR FORCE PERSONNEL CENTER
RANDOLPH AIR FORCE BASE TEXAS

21 MAY 1998

MEMORANDUM FOR AFBCMR

FROM: HQ AFPC/DPPTR
550 C Street West Ste 11
Randolph AFB TX 78150-4713

SUBJECT: Application for Correction of Military Records

Reference: [REDACTED]

Requested Correction: The applicant, former spouse of the above-named retired member, is requesting corrective action to show that he filed a timely election to voluntarily change his Survivor Benefit Plan (SBP) coverage from spouse and child to former spouse based on full retired pay.

Basis for Request: The applicant claims the decedent kept paying premiums until his death because he believed she would receive the annuity.

Background: A spouse's eligibility to receive an annuity terminates upon divorce. However, the law provides two mechanisms for changing spouse coverage to former spouse coverage. Both must be exercised within the first year following divorce: the retiree may file an election change, or the former spouse may request the retiree be deemed to have made such a change on his or her behalf. In the latter case, the former spouse must provide legal documentation that the member agreed, or that the court ordered the member, to establish former spouse coverage. If neither the member nor the former spouse requests the election change during the one-year eligibility period, former spouse coverage may not be established thereafter. Although SBP premiums may continue to be deducted from the member's retired pay following divorce, the former spouse is not eligible to receive annuity payments in the event of the member's death.

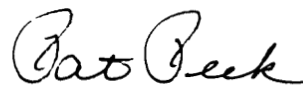
Facts: The member retired on 1 Jul 72, and elected spouse and child **SBP** coverage based on full retired pay during the SBP's initial open enrollment period (effective 21 Sep 72). Records indicate spouse coverage was suspended Oct 76 due to divorce. The member and applicant married on 5 Aug 78; however, the finance center did not become aware of the marriage until Mar 89 when spouse costs and coverage were reinstated and a cost debt calculated. The General Accounting Office (**GAO**) approved a request for a waiver of the premium debt in Jun 89. The parties divorced 19 May 97 and the court order was silent on the matter of the SBP. The youngest child lost eligibility effective 1 Jul 97 and the child portion of the premiums

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was suspended. Neither the member or the petitioner remarried and **SBP** premiums continued to be deducted from the member's retired pay until his 6 Nov 97 death.

Discussion: Although the divorce decree was silent on the matter of SBP, there is no evidence that the member requested the applicant's coverage be terminated, indicative of his intent to maintain her as the eligible SBP beneficiary.

Recommendation: Although there **is** no evidence of Air Force error, to preclude a possible injustice, we recommend that the member's record be corrected to reflect that on 20 May 97, he elected to change **SBP** spouse and child coverage to former spouse coverage based on full retired pay, naming ██████████ as the former spouse beneficiary. Approval should be contingent upon recoupment of any applicable premiums.



PAT PEEK, DAFC

Chief, Retiree Services Branch
Directorate of Pers Program Mgt

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