RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF: DOCKET NUMBER: 98-00339

███████████████████   COUNSEL: NONE   **NOV 1 3 1998**

███████████   HEARING DESIRED: NO

Applicant requests that he be permitted to change his Survivor
Benefit Plan (SBP) coverage from child only to spouse and child
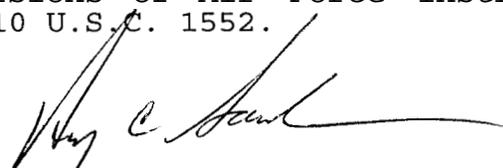coverage. Applicant's submission is at Exhibit A.

The appropriate Air Force office evaluated applicant's request and
provided an advisory opinion to the Board recommending the
application be denied (Exhibit C).   The advisory opinion was
forwarded to the applicant for review and response (Exhibit D).   As
of this date, no response has been received by this office.

After careful consideration of applicant's request and the available
evidence of record, we find insufficient evidence of error or
injustice to warrant corrective action.   The facts and opinions
stated in the advisory opinion appear to be based on the evidence of
record and have not been rebutted by applicant. Absent persuasive
evidence applicant was denied rights to which entitled, appropriate
regulations were not followed, or appropriate standards were not
applied, we find no basis to disturb the existing record.

Accordingly, applicant's request is denied.

The Board staff is directed to inform applicant of this decision.
Applicant should also be informed that this decision is final and
will only be reconsidered upon the presentation of new relevant
evidence which was not reasonably available at the time the
application was filed.

Members of the Board, Mr. Henry C. Saunders, Ms. Ann L. Heidig, and
Mrs. Barbara A. Westgate, considered this application on 27 October
1998 in accordance with the provisions of Air Force Instruction
36-2603 and the governing statute, 10 U.S.C. 1552.

HENRY C. SAUNDERS
Panel Chair

Exhibits:
A. Applicant's DD Form 149
B. Available Master Personnel Records
C. Advisory Opinion
D. SAF/MIBR Ltr Forwarding Advisory Opinion

9 JUN 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: ████████████████████████████████

Requested Correction: The applicant is requesting corrective action that would permit him to change his Survivor Benefit Plan (SBP) coverage from child only to spouse and child.

Basis for Request: The member claims he is not being allowed to provide SBP coverage for his wife and son because of an error in his marital status at retirement.

Backnround:

a. A member who is unmarried at retirement may elect coverage for a newly acquired spouse; however, the election must be made before the first anniversary of the marriage. If a member fails to make an election before then, he may not provide SBP coverage for that person or another person of that category unless Congress authorizes an open enrollment period.

b. Children acquired after retirement automatically become eligible beneficiaries when added to an existing election for child coverage. The member must notify the Defense Finance and Accounting Service - Cleveland Center (DFAS-CL) and furnish documentation necessary to update the record. If the youngest child at the time of retirement remains eligible, adding a child acquired after retirement does not effect the SBP monthly cost.

c. Systems incompatibilities resulted in Air Force retirees' records being universally coded by DFAS-CL to reflect a member who declined coverage "excluded" an eligible spouse beneficiary, regardless of the retiree's actual marital status at retirement. This systems problem has been reported to DFAS officials, but a solution has not been determined.

Facts: The applicant and ████████ divorced 21 Jun 87 and he elected child only SBP coverage, maximum annuity, prior to his 1 Oct 87 retirement. They remarried on 25 Mar 88, but the applicant failed to request his wife be added to his existing child coverage before the first anniversary of the marriage. His son ████████ was born on 27 Dec 89; although the member did not notify DFAS-CL and furnish documentation, the younger child became an eligible beneficiary on the date of birth at no increased cost.

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Discussion:

a. We have informed the applicant to submit a copy of ███████████ birth certificate to DFAS-CL to properly update his record.

b. The erroneous marital status code on the applicant's record, in this case, is irrelevant. He was eligible to add his spouse, acquired after retirement, to his child only coverage but failed to do so within the one-year time limit. He offers no explanation why he waited over nine years to inquire about coverage for his new spouse, or why he failed to elect coverage for her during the SBP open enrollment period authorized by Public Law (PL) 101-189 (1 Apr 92 through 31 Mar 93). During the open enrollment period, members were advised by direct mail of SBP rules and eligibility requirements. The information was mailed to the member's correspondence address maintained by the finance center and contained points of contact for members to use to gain additional guidance. There is no record that he returned an election form. SBP is similar to commercial life insurance in that an individual must elect to participate and pay the associated premiums in order to provide coverage. It would be inequitable to those members who chose to participate when eligible and subsequently received reduced retired pay, to provide an additional opportunity for this member to change his SBP election.

Recommendation: There is no evidence of error or injustice in this case and we recommend the request be denied. However, if the Board's decision is to grant relief, the member's record should be corrected to reflect on **24** Mar 89 he elected to add his spouse to his child only SBP coverage based on full retired pay. Approval should be contingent upon recoupment of all applicable premiums the member would have paid had he made the election at that time.

Chief, Retiree Services Branch
Directorate of Pers Program Management

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