

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NO: 98-00412

DEC 11 1998

COUNSEL: None

HEARING DESIRED Yes

[REDACTED]
[REDACTED]
Applicant requests benefits from the Survivor Benefit Program and her late husband's life insurance policy. Applicant's submission is at Exhibit A.

The appropriate Air Force offices evaluated applicant's request and provided advisory opinions to the Board recommending the application be denied (Exhibit B). The advisory opinions were forwarded to the applicant for review and response (Exhibit C). Applicant's response to the advisory opinions is at Exhibit D.

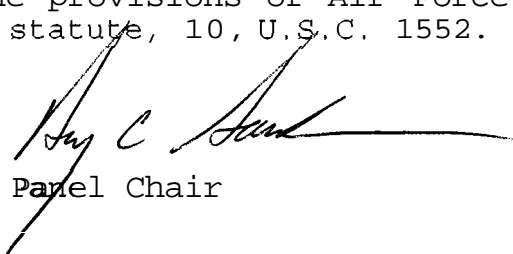
After careful consideration of applicant's request and the available evidence of record, we find insufficient evidence of error or injustice to warrant corrective action. The facts and opinions stated in the advisory opinions appear to be based on the evidence of record and have not been sufficiently 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 documentation provided with this case was sufficient to give the Board a clear understanding of the issues involved and a personal appearance, with or without legal counsel, would not have materially added to that understanding. Therefore, the request for a hearing is not favorably considered.

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, Mrs. Barbara A. Westgate, and Ms. Ann L. Heidig 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.


Panel Chair

Exhibits:

- A. Applicant's DD Form 149
- B. Advisory Opinions
- C. AFBCMR Ltr Forwarding Advisory Opinions
- D. Applicant's Response



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

6 April 1998

MEMORANDUM FOR AFBCMR

FROM: HQ AFPC/DPWCS
550 C Street West, Suite 14
Randolph AFB TX 78150-4716

SUBJECT: Application for Correction of Military Records- [REDACTED]
[REDACTED]

REQUESTED ACTION: The applicant, [REDACTED] widow of TSgt [REDACTED], has requested information on the status of her husband's life insurance policy.

BASIS FOR REQUEST: The applicant claims the insurance policy was with the military and closed for reason unknown to her in 1982.

DISCUSSION: Upon receipt of the DD Form 149, Application for Correction of Military Record, this office contacted the Veterans Affairs Regional Office, and Insurance Center, in Philadelphia, PA. [REDACTED] informed us that there was a National Servicemen's Life Insurance (NSLI) policy until 19 January 1981.

RECOMMENDATION: Board refer applicant to the Veterans Affairs Regional Office and Insurance Center, P.O. Box 42954, Philadelphia, PA 19101, 1-800-419-1473, for further information on the NSLI policy.


RODNEY A. OUIMETTE, SMSgt, USAF
Chief, Casualty Field Operations



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

14 APR 1988

MEMORANDUM FOR AFBCMR

FROM: HQ AFPC/DPPTR
550 C Street West Ste 1 ■
Randolph AFB TX 78150-4713

SUBJECT: Application for Correction of Military Records

Requested Correction: The applicant, widow of the above-named retired member, is requesting corrective action that would entitle her to a Survivor Benefit Plan (SBP) annuity.

Basis for Request: The applicant claims her husband thought she would automatically receive his pension upon his death.

Background:

a. Survivors of military retirees may continue to receive a portion of the member's retired pay only if they participated in one of the annuity plans sponsored by the Department of Defense. There is no legal authority for the Air Force to pay the survivor an annuity if the member did not choose to provide coverage on the survivor's behalf.

b. Public Law (PL) 87-381, which established the Retired Serviceman's Family Protection Plan (RSFPP), was in effect when the member retired. Members were briefed and required to make their RSFPP elections before completing 18 years of service, but spousal notification or concurrence was not required.

c. Public Law (PL) 92-425, which established the SBP on 21 Sep 72, authorized an 18-month enrollment period for retired members to elect SBP coverage. PLs 97-35 and 101-189 later authorized two additional open enrollment periods: 1 Oct 81 - 30 Sep 82 and 1 Apr 92 - 31 Mar 93, respectively. There were no provisions in the law during these enrollment periods which required the spouse of a retired member to be notified if the member did not elect coverage.

Facts:

a. Defense Enrollment Eligibility Reporting System (DEERS) records indicate the decedent and applicant were married on 23 Apr 55. Pay records verify that the member elected child only RSFPP coverage prior to his 1 Sep 65 retirement. RSFPP costs and coverage terminated effective Dec 76 due to loss of eligible beneficiaries.

b. The decedent failed to elect SBP coverage for the applicant during any of the three congressionally approved SBP open enrollment periods. During all open enrollment periods, members were advised by direct mail of their eligibility to make an election. The enrollment

packets, as well as the retiree newsletters published during those time frames (also sent by direct mail), contained points of contact for members to use to gain additional information. The enrollment packets were mailed to the member's correspondence address maintained by the Air Force Accounting and Finance Center (AFAFC), the address at which the applicant continues to reside. Records indicate the decedent submitted an election to decline coverage in the **SBP** during the Plan's initial enrollment **period** and there is no record he returned an election form during the other two enrollment periods. He died on 3 Nov 96.

Discussion: SBP is similar to commercial life insurance in that an individual must elect to participate and pay the associated premiums in order to have coverage. It would be inequitable to those members who chose to participate when eligible and subsequently received reduced retired pay, and to other widows whose sponsors chose not to participate, to provide entitlement to **this** widow on the *basis* of the evidence presented.

Recommendation: There is no evidence of an Air Force error or injustice in this case and we recommend the requested relief be denied. However, if the decision is to grant relief, the decedent's record should be corrected to show on 21 Sep 72 he made an SBP election for spouse only coverage based on full retired pay. Approval should be **contingent** upon the recoupment of premiums the decedent would have paid if he had made the election at that time.



PAT PEEK, DAFC
Chief, Retiree Services Branch
Directorate Pers Prog Management