

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: 98-00888

COUNSEL: None

NOV 13 1998

HEARING DESIRED: No

~~APPLICANT REQUESTS THAT:~~

His records be changed to show he elected spouse and child coverage under the Survivor Benefit Plan (SBP).

~~APPLICANT CONTENDS THAT:~~

On 21 October 1992, he went to the [REDACTED] AFB Personnel Center to check on the SBP status of his wife to insure that she was enrolled, and also to enroll two newly adopted small children (of his deceased son) during the SBP Open Enrollment Election period. The personnel clerk completed the necessary form and assured him that what he wanted had been accomplished. He did not notice at that time that his wife was left off the enrollment form. He discovered this administrative error on 23 March 1998 during his visit to the [REDACTED] Retiree Activities Office. He asked the Director to check the status of his SBP election. He called the Defense Finance and Accounting Service [REDACTED] and learned that his wife was not included on the election form. It is imperative that this correction be made immediately. He is 78 years old and should he become deceased his wife and children would have very little support for their survival.

Applicant's complete submission is attached at Exhibit A.

~~STATEMENT OF FACTS:~~

The applicant was married on 17 August 1957, but did not return an election form during either the initial SBP open enrollment or the 81-82 open enrollment period. He elected child only SBP coverage based on full retired pay during the 1 April 1992 - 31 March 1993 open enrollment which became effective 1 November 1992.

Public Law 101-189 held that once a member made an election resulting in a change to his SBP coverage, that member could not make another change under the provisions of the open enrollment.

~~AIR FORCE EVALUATION:~~

The Chief, Retiree Services Branch, Directorate of Pers Program Management, HQ AFPC/DPPT, reviewed this application and states that there is no evidence of error or injustice in this case and they recommend the request be denied.

A complete copy of the evaluation is attached at Exhibit C.

~~APPLICANT'S REVIEW OF AIR FORCE EVALUATION:~~

The applicant reviewed the advisory opinion and states that he is requesting a change in his military records by adding his wife to the plan. When he retired in 1970, there were no options of this kind offered. He was under the impression that his wife would automatically receive a portion of his retirement check. In 1988, his wife and he adopted their great grandchildren, and it was shortly after that when he enrolled the children in the plan. He was led to believe that his wife was included in it as well. At the time, he did not receive any paperwork pertaining to the fact that his wife or his children were enrolled. He just recently found out that his wife was not included.

Applicant's complete response is attached at Exhibit D.

THE BOARD CONCLUDES THAT:

1. The applicant has exhausted all remedies provided by existing law or regulations.
2. The application was not timely filed; however, it is in the interest of justice to excuse the failure to timely file.
3. Insufficient relevant evidence has been presented to demonstrate the existence of probable error or injustice. We took notice of the applicant's complete submission in judging the merits of the case; however, we agree with the opinion and recommendation of the Air Force and adopt their rationale as the basis for our conclusion that the applicant has not been the victim of an error or injustice. Therefore, in the absence of evidence to the contrary, we find no compelling basis to recommend granting the relief sought in this application.

THE BOARD DETERMINES THAT:

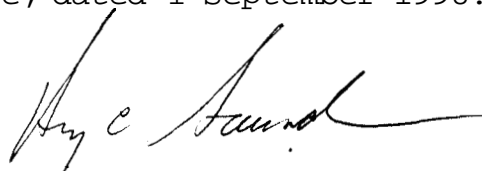
The applicant be notified that the evidence presented did not demonstrate the existence of probable material error or injustice; that the application was denied without a personal appearance; and that the application will only be reconsidered upon the submission of newly discovered relevant evidence not considered with this application.

The following members of the Board considered this application in Executive Session on 27 October 1998, under the provisions of AFI 36-2603:

Mr. Henry C. Saunders, Panel Chair
Ms. Ann L. Heidig, Member
Mrs. Barbara A. Westgate, Member
Ms. Gloria J. Williams, Examiner (without vote)

The following documentary evidence was considered:

- Exhibit A. DD Form 149, dated 24 March 1998, w/atchs.
- Exhibit B. Applicant's Master Personnel Records.
- Exhibit C. Letter, AFPC/DPPTR, dated 31 July 1998.
- Exhibit D. Letter, AFBCMR, dated 17 August 1998.
- Exhibit E. Applicant's Response, dated 1 September 1998.



HENRY C. SAUNDERS
Panel Chair



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS AIR FORCE PERSONNELCENTER
RANDOLPH AIR FORCE BASE TEXAS

13 1 JUL 1998

MEMORANDUM FOR AFBCMR

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

SUBJECT: Application for Correction of Military Records

Reference: [REDACTED]

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 applicant claims his intention was to enroll his spouse and adopted children during the 1992 open enrollment period, but the enrollment form was improperly prepared.

Background: Public Law (PL) 101-189 held that once a member made an election resulting in a change to his SBP coverage, that member could not make another change under the provisions of the open enrollment.

Facts: Records indicate the applicant was married on 17 Aug 57, but did not return an election form during either the initial SBP open enrollment or the 81-82 open enrollment period. He elected child only SBP coverage based on full retired pay during the 1 Apr 92 - 31 Mar 93 open enrollment which became effective 1 Nov 92.

Discussion: The Feb 92 issue of the Afterburner, USAF News for Retired Personnel, sent to all retirees by direct mail, was devoted to options available to retirees who wished to make an open enrollment SBP election. The newsletter contained detailed instructions and examples to use to compute the cost and included toll-free numbers for retirees to call for additional information or if they had questions. The newsletter plainly stated that, once made, the election was basically irrevocable. There is no provision in PL 101-189 that permits changes to the open season election. Approval of this request would provide the applicant an opportunity not afforded other retirees and is not justified by the evidence presented.

Recommendation: There is no evidence of error or injustice in this case and we strongly recommend the request be denied. However, if the Board's decision is to

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grant relief, the member's record should be corrected to reflect on 31 Oct 92 he elected spouse and child SBP coverage based on full retired pay. Approval should be contingent upon recoupment of all applicable premiums.



PAT PEEK, DAFC
Chief, Retiree Services Branch
Directorate of Pers Program Management

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