

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:
COUNSEL: NONE

DOCKET NUMBER: BC-2011-05136

HEARING DESIRED: NO

APPLICANT REQUESTS THAT:

Her records be changed to show that she made an election for "spouse only," coverage based on full retired pay under the Survivor Benefit Plan (SBP).

APPLICANT CONTENDS THAT:

Prior to her retirement on 1 Jun 2009, she and her spouse, who is currently on active duty, attended her pre-retirement briefing. The SBP counselor provided erroneous information by advising her she could buy into the SBP at the rate of \$350 per month. She was never offered any other rate(s) or additional information.

After attending her spouse's pre-retirement briefing on 12 Dec 2011, she learned they were provided erroneous information. She and her spouse elected her coverage at the base amount of \$747.00, at a cost of 2.5 percent of the base (to be deducted from her spouse's retirement pay), which would provide a monthly annuity of 55 percent of the base amount in the event of her spouse's death.

She would have never elected to decline coverage for her spouse had she been given the proper information, alternative rates and options. Therefore, she is requesting that she be allowed to establish SBP coverage for her spouse at the same rate, base amount and coverage he elected for her.

She understands that if approved, she would owe the government from the time of her retirement to present.

In support of her request, the applicant provides a copy of her spouse's DD Form 2656, *Data for Payment of Retired Personnel*.

The applicant's complete submission, with attachment, is at Exhibit A.

STATEMENT OF FACTS:

A member, who is married at retirement and fails to provide coverage for an eligible spouse, may not provide coverage in the future, unless Congress authorizes an open enrollment period. Public Law (PL) 99-145, 8 Nov 1985, required the spouse of a married member retiring on or after 1 Mar 1986, to concur in SBP elections that provide less than maximum spouse coverage. If the spouse does not concur in the election, SBP coverage will be established on the spouse's behalf by operation of law.

The Air Force developed the SBP RIP (Report on Individual Person), a tool for counselors to use to conduct one-on-one briefings prior to the member's retirement. The member signs the RIP, certifying he or she was properly informed about the fundamentals of the Plan. A copy of the SBP RIP is maintained in the member's permanent military records.

According to the information provided by the Air Force office of primary responsibility, the applicant and her spouse were married, but she declined SBP coverage prior to her 1 Jun 2009 retirement and her spouse concurred with her election.

AIR FORCE EVALUATION:

HQ ARPC/DPSIAR recommends denial. DPSIAR states, there is no indication the applicant was improperly counseled prior to her retirement and she made a valid election with her spouse's concurrence. A copy of the SBP RIP located in her records shows she signed the certification sheet on 14 Apr 2009, indicating she was properly briefed on the options and effects of the Plan.

Her spouse signed section XII of the DD Form 2656. His signature indicates his acknowledgement of the applicant's decision to decline SBP coverage and that he received information explaining the options and effects of the SBP. SBP is similar to commercial life insurance in that an individual must elect to participate during the opportunities provided by the law and pay the associated premiums in order to have coverage.

The complete DPSIAR evaluation, with attachments, is at Exhibit B.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

A copy of the Air Force evaluation was forwarded to the applicant on 10 Feb 2012 for review and comment within 30 days. As of this date, no response has been received by this office (Exhibit C).

THE BOARD CONCLUDES THAT:

1. The applicant has exhausted all remedies provided by existing law or regulations.
 2. The application was timely filed.
 3. Insufficient relevant evidence has been presented to demonstrate the existence of 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 office of primary responsibility and adopt its rationale as the basis for our conclusion the applicant has not been the victim of an error or injustice. Therefore, in the absence of evidence to the contrary, we find no basis to recommend granting the relief sought in this application.
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THE BOARD DETERMINES THAT:

The applicant be notified that the evidence presented did not demonstrate the existence of 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 15 Aug 2012, under the provisions of AFI 36-2603:

Panel Chair
Member
Member

The following documentary evidence was considered in AFBCMR BC-2011-05136:

XXXXXXX, dated 19 Dec 2011, w/atchs.
XXXXXXX, AFPC/DPSIAR, dated 1 Feb 2012.
XXXXXXX, SAF/MRBR, dated 10 Feb 2012.

Panel Chair