

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: BC-2012-00973

COUNSEL: NONE

XXXXXXXXXXXXXXXXXXXX (DECEASED)

HEARING DESIRED: NO

XXXXXXXXXXXXXXXXXXXX (APPLICANT)

APPLICANT REQUESTS THAT:

Her spouse's record be corrected to show he elected "spouse only" immediate coverage based on full retired pay under the Reserve Component Survivor Benefit Plan (RCSBP).

APPLICANT CONTENDS THAT:

Her late husband would have been eligible for retirement at age 60; however, he died on 16 May 2011 at the age of 45.

In support of her appeal, the applicant provides copies of her late husband's retirement order, Report of Separation, and Certificate of Death.

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

STATEMENT OF FACTS:

The decedent is a former member of the Air National Guard (ANG) who was transferred to the Retired Reserve effective 27 October 1999 in the grade of technical sergeant (E-6) after serving 15 years, 7 months, and 16 days of satisfactory service.

The remaining relevant facts are contained in the letter prepared by the Air Force office of primary responsibility (OPR) at Exhibit B.

AIR FORCE EVALUATION:

ARPC/DPTT recommends denial. DPTT indicates the decedent was notified of his eligibility to participate in the RCSBP on 6 March 2000 via certified mail. The acknowledgment receipt of the Notification of Eligibility was signed on 24 March 2000. The decedent made no election during that time and, as prescribed by Title 10, United States Code, Section 1448, was automatically enrolled in Option A, "Declined to make an election until age 60"

effective 22 June 2000. He was afforded one opportunity to upgrade his election after his original election was updated, when Congress declared 1 October 2005 through 30 September 2006 as an SBP Open Enrollment Season. Members, who had previously elected less than full coverage or no coverage for their spouse/children, were afforded the opportunity to change their election to cover their families. The decedent did not elect to participate during this open season.

DPTT states that in view of the fact that the decedent would have been eligible for retired pay at age 60, the applicant is eligible for an Identification Card and Base-Exchange and Commissary privileges effective 6 March 2000. In addition, she will be eligible to apply for medical and dental benefits through the TRICARE program effective 3 March 2026.

Based on the fact the decedent did not elect to participate in RCSBP, the applicant is not entitled to RCSBP benefits.

The complete DPTT 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 25 June 2012, for review and comment within 30 days (Exhibit C). As of this date, this office has received no response.

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 an error or an 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.

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 AFBCMR Docket Number BC-2012-00973 in Executive Session on 27 November 2012, under the provisions of AFI 36-2603:

XXXXXXXXXXXXXXXXXXXXX, Panel Chair
XXXXXXXXXXXXXXXXXXXXX, Member
XXXXXXXXXXXXXXXXXXXXX, Member

The following documentary evidence was considered in connection with AFBCMR Docket Number BC-2012-00973:

- Exhibit A. DD Form 149, dated 15 Mar 12, w/atchs.
- Exhibit B. Letter, ARPC/DPTT, dated 1 May 12, w/atchs.
- Exhibit C. Letter, SAF/MRBR, dated 25 Jun 12.

XXXXXXXXXXXXXXXXXXXXX
Panel Chair