

RECORD OF PROCEEDINGS  
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: BC-2012-01102

COUNSEL: NONE

HEARING DESIRED: NO

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APPLICANT REQUESTS THAT:

His records be corrected to reflect he made a timely election to change his Survivor Benefit Plan (SBP) spouse only coverage to spouse and child(ren) coverage.

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APPLICANT CONTENDS THAT:

At the time he made the election for spouse coverage his son was not born and he did not have custody of his step-children. He did not remember he needed to add his children within one year of acquiring them.

In support of his request, the applicant provides a copy of his DD Form 2656-6, *Survivor Benefit Plan Election Change Certificate*, and copies of his children's birth certificates and social security cards.

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

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STATEMENT OF FACTS:

Prior to his 1 May 08, retirement, the applicant was single with no dependent children and declined SBP coverage. On 2 Mar 09, he was married. Although, his spouse had two children, he submitted a request for spouse only coverage under the SBP within the first year of their marriage. Their child was born on 21 Sep 09 and there is no evidence the applicant attempted to establish coverage for his son within the first year following his birth.

The remaining relevant facts pertaining to this application are contained in the letter prepared by the appropriate office of the Air Force, which is attached at Exhibit B.

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AIR FORCE EVALUATION:

AFPC/DPSIAR recommends denial noting there is no merit to the applicant's contention that he did not include his step-children when he submitted his SBP election because he did not have custody of them. A service member, who has no eligible beneficiary at retirement, may provide coverage for the first spouse and/or child acquired following retirement. However, the election must be submitted before the first anniversary of the date of marriage, or the date of the child's birth or adoption. The new spouse will not become eligible to receive the SBP annuity until the marriage has existed one full year, but a child becomes eligible on the date of birth or adoption. If the service member fails to elect SBP coverage for an eligible beneficiary within the time prescribed by law, coverage may be provided only in the event of an open enrollment period authorized by Congress. Federal law does not require a service member to have physical custody of an eligible dependent child in order to elect SBP coverage on the child's behalf. Correct and specific action is required to elect SBP coverage following post-retirement changes in family status. The *Afterburner, News for USAF Retired Personnel*, contains reminders for service members concerning required actions to ensure SBP coverage is properly obtained following changes in marital and family status. To allow this applicant an additional opportunity to provide SBP coverage for his children would be inequitable to other retirees in similar situations.

The complete AFPC/DPSIAR evaluation is at Exhibit B.

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APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

A copy of the Air Force evaluation was forwarded to the applicant on 7 May 12 for review and comment within 30 days (Exhibit C). As of this date, no response has been received by this office.

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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 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 the recommendation of the Air Force office of primary responsibility and adopt its rationale as the basis for our conclusion that the applicant has failed to sustain his burden of proof of the

existence of an error or injustice. Therefore, we must recommend that the requested relief be denied.

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THE BOARD DETERMINES THAT:

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

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The following members of the Board considered AFBCMR Docket Number BC-2012-01102 in Executive Session on 27 Nov 12, under the provisions of AFI 36-2603:

Panel Chair  
Member  
Member

The following documentary evidence was considered:

Exhibit A. DD Form 149, dated 23 Mar 12, w/atchs.  
Exhibit B. Letter, AFPC/DPSIAR, dated 30 Apr 12.  
Exhibit C. Letter, SAF/MRBR, dated 7 May 12.

Panel Chair