

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: BC-2012-01608
COUNSEL: NONE
HEARING DESIRED: NO

APPLICANT REQUESTS THAT:

The former member's record be corrected to authorize Survivor Benefit Plan (SBP) spouse coverage.

APPLICANT CONTENDS THAT:

She has a seriously disabled son who cannot care for himself and has been disabled since birth. She is not able to take care of him on her income. She feels that it was a mistake not having SBP coverage and her deceased husband should have elected spouse coverage.

In support of her request, the applicant provides a copy of the former member's AF Form 1266, *Survivor Benefit Plan (SBP) Election*, a copy of the former member's death certificate, a copy of the marriage certificate, a copy of the funeral expenses, and a cover letter from the Veterans of Foreign Wars of the U.S.

Her complete submission, with attachments, is at Exhibit A.

STATEMENT OF FACTS:

The relevant facts pertaining to this application, extracted from the applicant's military records, are contained in the letter prepared by the appropriate office of the Air Force. Accordingly, there is no need to recite these facts in this Record of Proceedings.

AIR FORCE EVALUATION:

AFPC/DPSIAR recommends granting partial relief. DPSIAR states there is no evidence of an Air Force error; however, to preclude an injustice, they recommend the former member's record be corrected to reflect his SBP beneficiary information documented his son was incapable of self-support before age 18. Approval should be contingent upon obtaining medical documentation as to

the date of his initial diagnosis, and a notarized statement in which the applicant affirms the former member never married. Finally, approval should be contingent upon recovery of all applicable retroactive SBP premiums.

The member elected child only coverage based on full retired pay, and the applicant concurred in the election. The form used to record SBP elections at the time did not contain a block to indicate any of the children were incapable of self support. Consequently, the member's SBP coverage was suspended effective Aug 07 when the youngest child attained age 22. The Defense Enrollment Eligibility Reporting System (DEERS) reflects the member's son born 29 May 76 is permanently incapable of self support, but he does not have a valid dependent ID card.

The member could have elected spouse and child coverage prior to retirement, but did not. He also could have provided spouse coverage on the applicant's behalf during the two SBP open enrollments following his retirement, but did not.

The DPSIAR complete evaluation is at Exhibit B.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

A copy of the Air Force evaluation was forwarded to the applicant on 18 Jun 12 for review and comment within 30 days. 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 timely filed.
3. Insufficient relevant evidence has been presented to demonstrate the existence of error or injustice regarding the applicant's request to grant her spouse coverage under the SBP. 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 AFPC/DPSIAR and adopt its rationale as the basis for our conclusion that the applicant has not been the victim of an error or injustice. However, we note that DPSIAR has recommended the record be corrected to reflect that the former member's son, Daniel, was incapable of self-support before the age of 18. Approval should be contingent upon obtaining medical documentation as to the date of the son's initial diagnosis and a notarized statement in which the applicant confirms the son has never married. Although the applicant was

provided a copy of the DPSIAR evaluation, she has not responded and provided the necessary documentation. As such, we cannot make a favorable recommendation to grant this relief at this time. We recommend the applicant submit a request and provide the necessary documentation noted above if she would like to have the record corrected as recommended. Therefore, in the absence of evidence to the contrary, we find no compelling basis to recommend granting the relief as requested by the applicant or that recommended by AFPC/DPSIAR.

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-2012-01608 in Executive Session on 27 Nov 12, under the provisions of AFI 36-2603:

The following documentary evidence was considered:

- Exhibit A. DD Form 149, dated 23 Mar 12, w/atchs.
- Exhibit B. Letter, AFPC/DPSIAR, dated 30 May 12.
- Exhibit C. Letter, SAF/MRBR, dated 18 Jun 12.

Panel Chair

