

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: 97-00107

COUNSEL: None

HEARING DESIRED: No

APPLICANT REQUESTS THAT:

His records be corrected to show he elected child only coverage under the Survivor Benefit Plan (SBP).

APPLICANT CONTENDS THAT:

During the briefing he received on the SBP, he was not informed about placing his unborn child on the plan. Had he been so informed, he would have started the SBP after the baby was born.

In support of his request, the applicant submitted a copy of the child's birth certificate, and a copy of the letter sent to the Defense Finance Accounting Service (DFAS) requesting information on obtaining coverage for his child.

His complete submission is attached at Exhibit.A.

STATEMENT OF FACTS:

The applicant declined coverage under the SBP when he retired on 1 February 1995. His spouse concurred with his decision. His son was born on 12 June 1995 and he failed to request child coverage within the first year following the son's birth.

AIR FORCE EVALUATION:

The Retiree Services Branch, AFPC/DPPT, reviewed the application and recommended denial. They stated they have no way of knowing what information he did or did not receive during his preretirement briefing because his master personnel record does not contain a copy of the SBP counseling RIP. However, those briefings routinely provide information about SBP changes that are permitted after retirement. The applicant attended this briefing less than one year before his child's birth and knew the SBP had very specific rules governed by law. There is no evidence of error on the part of the Air Force and it would be inequitable to other members who are similarly situated to

provide an additional opportunity for this member to elect child coverage.

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

APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

A copy of the Air Force evaluation was forwarded to the applicant on 4 August 1997 for review and comments within 30 days. As of this date, no response has been received by this office.

THE BOARD CONCLUDES THAT:

1. The applicant has exhausted all remedies provided by existing law or regulations.
2. The application was timely filed,
3. Sufficient relevant evidence has been presented to demonstrate the existence of probable error or injustice. After a thorough review of the evidence provided, we are persuaded that his request to elect child coverage should be granted. In this respect, we note that the form signed by the applicant and his spouse declining coverage was signed on 14 September 1994; however, this was prior to applicant's retirement briefing. While we realize that retirement briefings routinely provide information about changes permitted after retirement, since the applicant's record does not contain a copy of the counseling RIP, we cannot determine what information he received. Therefore, based on the above and in an effort to prevent any injustice to applicant and his family, we recommend his records be corrected to the extent indicated below.

THE BOARD RECOMMENDS THAT:

The pertinent military records of the Department of the Air Force relating to APPLICANT, be corrected to show that on 1 July 1995, he elected under the Survivor Benefit Plan, child only coverage based on full retired pay.

The following members of the Board considered this application in Executive Session on 21 May 1998, under the provisions of AFI 36-2603:

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

All members voted to correct the records, as recommended. The following documentary evidence was considered:

- Exhibit A. DD Form 149, dated 7 Jan 97 with atchs.
- Exhibit B. Applicant's Master Personnel Records.
- Exhibit C. Letter, AFPC/DPPTR, dated 22 Jul 97.
- Exhibit D. Letter, AFBCMR, dated 4 Aug 97.



HENRY C. SAUNDERS
Panel Chair



DEPARTMENT OF THE AIR FORCE
WASHINGTON, DC

JUL 07 1998

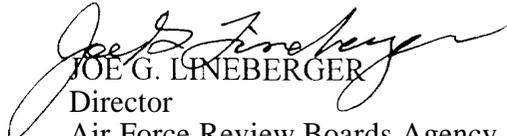
Office of the Assistant Secretary

AFBCMR 97-00107

MEMORANDUM FOR THE CHIEF OF STAFF

Having received and considered the recommendation of the Air Force Board for Correction of Military Records and under the authority of Section 1552, Title 10, United States Code (70A Stat 116), it is directed that:

The pertinent military records of the Department of the Air Force relating to [REDACTED] be corrected to show that on 1 July 1995, he elected under the Survivor Benefit Plan, child only coverage based on full retired pay.


JOE G. LINEBERGER
Director
Air Force Review Boards Agency