

JUL 24 1998

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: 97-03033

[REDACTED]
[REDACTED]
COUNSEL: None

HEARING DESIRED: No

Applicant requests corrective action that would entitle her to a refund of premiums her late husband paid into the Retired Serviceman's Family Protection Plan (RSFPP). Applicant's submission is at Exhibit A.

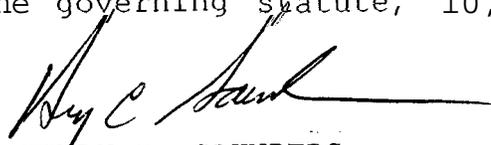
The appropriate Air Force office evaluated applicant's request and provided an advisory opinion to the Board recommending the application be denied (Exhibit C). The advisory opinion was forwarded to the applicant for review and response (Exhibit D). As of this date, no response has been received by this office.

After careful consideration of applicant's request and the available evidence of record, we find insufficient evidence of error or injustice to warrant corrective action. The facts and opinions stated in the advisory opinion appear to be based on the evidence of record and have not been adequately rebutted by applicant. Absent persuasive evidence applicant was denied rights to which entitled, appropriate regulations were not followed, or appropriate standards were not applied, we find no basis to disturb the existing record.

Accordingly, applicant's request is denied.

The Board staff is directed to inform applicant of this decision. Applicant should also be informed that this decision is final and will only be reconsidered upon the presentation of new relevant evidence which was not reasonably available at the time the application was filed.

Members of the Board Mr. Henry C. Saunders, Mrs. Barbara A. Westgate, and Mr. David C. Van Gasbeck considered this application on 16 July 1998 in accordance with the provisions of Air Force Instruction 36-2603, and the governing statute, 10, U.S.C. 1552.



HENRY C. SAUNDERS
Panel Chair

Exhibits:

- A. Applicant's DD Form 149
- B. Available Master Personnel Records
- C. Advisory Opinion
- D. AFBCMR Ltr Forwarding Advisory Opinion
- E. Applicant's Response



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS AIR FORCE PERSONNEL CENTER
RANDOLPH AIR FORCE BASE TEXAS



11 DEC 1997

MEMORANDUM FOR AFBCMR

FROM: HQ AFPC/DPPT
550 C Street West Ste 11
Randolph AF 6 TX 78150-4713

SUBJECT: Application for Correction of Military Records

Reference: [REDACTED]

Requested Correction: The applicant is requesting corrective action that would entitle her to a refund of premiums her husband paid into the Retired Serviceman's Family Protection Plan (RSFPP).

Basis for Request: The petitioner claims she and the member were informed she would receive the RSFPP.

Background: Public Law (PL) 87-381, which established the RSFPP and was in effect when the member retired, did not allow spouse coverage to be transferred to another person upon the death or divorce of the original beneficiary. The law, however, provided an option that allowed the member to terminate RSFPP premium payments in the event the beneficiary lost eligibility.

Facts: Prior to the member's 1 Mar 69 retirement, he elected spouse only RSFPP coverage (with option 4). The member and [REDACTED] divorced on 29 Nov 72; however, there is no record that he submitted a request to terminate his RSFPP premiums following divorce. He married the applicant on 11 Jun 73 and enrolled in the Survivor Benefit Plan (SBP) for spouse coverage, reduced annuity, during the initial enrollment period authorized by PL 92-425. The applicant became an eligible beneficiary on the second anniversary of their marriage (11 Jun 75). The member died on 29 Jan 96 and the applicant is receiving an SBP annuity.

Discussion: The erroneous information the Air Force Accounting and Finance Center (AFAFC) sent to the member on 11 Sep 73 may have resulted from the member's failure to notify them that he had divorced following his retirement. Although the member's 19 Sep 73 SBP election certificate reflected the applicant's name and their date of marriage, AFAFC received thousands of open enrollment elections and it was impossible to cross-check each application with information already in their files. In addition, articles periodically published in the Afterburner, USAF News For Retired Personnel (sample attached) informed retirees that only family members who were dependent on the member on the date of retirement could be covered under the RSFPP. It is unfortunate the member did not realize there was no RSFPP coverage in force and he could have terminated his premiums simply by submitting a copy of his divorce decree to AFAFC. However, his failure to do so is not a part of his military record that can be corrected.

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Recommendation: We recommend the case be returned to the applicant without action. It should be noted that the applicant may submit a claim to the Defense Finance and Accounting Service - Cleveland Center (DFAS-CL) and apply for a refund of RSFPP premiums paid by the member after his divorce (subject to the Barring Act).



PAT PEEK, DAFC
Chief, Retiree Services Branch
Directorate of Pers Program Management

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