



DEPARTMENT OF THE AIR FORCE
WASHINGTON, DC

JUN 12 1998

Office of the Assistant Secretary

AFBCMR 97-03286

MEMORANDUM FOR THE CHIEF OF STAFF

Under the authority of Section 1552, Title 10, United States Code, Air Force Instruction 36-2603, and having assured compliance with the provisions of the above regulation, the decision of the Air Force Board for Correction of Military Records is announced, and it is directed that:

The pertinent military records of the Department of the Air Force relating to [REDACTED], be corrected to show that on 17 August 1994, he elected to change his Survivor Benefit Plan election from "spouse and child coverage" to "former spouse coverage" naming [REDACTED] as beneficiary, based on reduced annuity.

RAYMOND H. WELLER

Chief Examiner
Air Force Board for Correction
of Military Records



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

10 MAR 1998

MEMORANDUM FOR AFBCMR

FROM: HQ AFPC/DPPTTR
550 C Street West Ste 11
Randolph AFB TX 78150-4713

SUBJECT: Application for Correction of Military Records

Requested Correction: The applicant, former **spouse** of the above-named retired member, is requesting corrective action to show **that** the decedent made a timely election to voluntarily change his Survivor Benefit Plan (SBP) coverage from spouse and **child** to former **spouse based on a reduced** level of retired pay.

Basis for Request: The applicant claims the member did not want to accept their divorce and **wanted** her to have SBP **when he passed away**.

Background: A spouse **loses** eligibility to receive an annuity upon divorce. However, the **law** provides **two** mechanisms for changing spouse to former **spouse** coverage. Both **must** be exercised within **the** first year following divorce: the retiree may **file** an election change, or the former spouse may request the retiree **be deemed** to have made **such** a change on his or **her** behalf. In the **latter** case, **the** former spouse must provide legal documentation that the member **agreed**, or that the **court** ordered the **member**, to establish former **spouse** coverage. If neither the member nor former **spouse** requests the election change during the one-year eligibility period, former **spouse** coverage may not be established thereafter. Even though a member fails to notify Defense Finance and Accounting Service (DFAS) of the divorce and continues to pay SBP premiums **afterwards**, the former spouse is not eligible for an annuity upon the member's death.

Facts: The member **elected** spouse and child **coverage based on a reduced level** of retired pay prior to his 1 Jun 83 retirement. The parties divorced on 16 Aug 94 but the court order was silent on the issue of SBP. However, the member continued to pay premiums for spouse and child coverage until his 19 Sep 97 **death**. Subsequent to his death, his son was determined ineligible for the annuity because he was no longer attending school.

Discussion: Although the applicant made no election change during the required time limit, there is no evidence he requested the applicant's coverage **be**

terminated and premiums continued to be deducted from his *retired* pay, all indicative of his intent to maintain her as the eligible SBP beneficiary.

Recommendation: Although there is no evidence of Air Force error, to preclude a possible injustice, we recommend that the member's record be corrected to reflect that on 17 Aug 94, he elected to change SBP spouse and child coverage to former spouse coverage based on a reduced level of retired pay, naming [REDACTED] as the former spouse beneficiary. Approval should be contingent upon recoupment of any applicable premiums.



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