

## CHAPTER 42

**SURVIVOR BENEFIT PLAN (SBP) – APPLICATION OF THE PLAN**4201 PURPOSE

420101. SBP establishes a survivor benefit program for military personnel in retirement to complement the survivor benefits under social security laws. This Plan gives all pre-September 21, 1972, Uniformed Service retirees and those who retire on or after September 21, 1972, an opportunity to leave part of their retired pay to their survivors at a reasonable cost. Under this Plan, a member who retired before September 21, 1972 and who had previously elected to participate in the Retired Serviceman's Family Protection Plan (RSFPP) had the option to retain or cancel the RSFPP coverage when electing to participate in the SBP.

420102. The Plan provides, without cost, a minimum guarantee to a widow of a member who died before March 21, 1974. (See Chapter 51.) A surviving spouse of a member who died before November 1, 1953, is entitled to an annuity which may be in addition to the annuity payable under the minimum income annuity provisions.

420103. The Plan includes survivor benefits for the surviving spouse, dependent child or former spouse of a member who dies on active duty under certain circumstances, or to a member eligible to provide a Reserve Component annuity but who dies before notification of retirement eligibility under 10 U.S.C., Chapter 1223 (reference (c)), or during the 90-day period following notification of retirement eligibility if member had not made an election.

420104. The Plan provides for annuity payments under a determination by the Secretary of the Military Department concerned (or designee) that a participating member is presumed dead.

420105. Under a Supplemental SBP program, a member who has maximum annuity coverage for spouse or former spouse also may provide a Supplemental SBP annuity in increments of 5, 10, 15, or 20 percent of the base amount. The Supplemental SBP annuity begins on the first day of the month after the annuitant becomes age 62 or the day SBP annuity becomes payable, whichever is later.

4202 SPECIALIZED TERMS

420201. Annuitant. A person named by or on behalf of the retiree who is eligible for annuity payments under the Plan.

420202. Base Amount. The money amount selected by the member, with the concurrence of the member's spouse if required under, 10 U.S.C. 1448(a)(3) (reference (c)), or the amount selected on behalf of a member by the Secretary of the Military Department concerned, on which the annuity is based. This amount may range from \$300 minimum up to full gross retired pay entitlement. If the member's gross pay is less than \$300 per month, full gross pay must be

designated as the base amount. The base amount is adjusted consistent with cost-of-living increases in retired pay. If, upon advancement or change from TDRL to PDRL, gross retired pay is reduced to less than the current base amount, the member's new base amount is the new full gross retired pay entitlement. A member may not designate different base amounts between the spouse and the children.

420203. Beneficiary. A spouse and/or child(ren) of the retiree; a former spouse or former spouse and children; a natural person with an insurable interest in the life of the retiree who is designated to receive coverage under the plan.

420204. Change in Coverage. An action taken because of a change in the member's family status which requires a change in beneficiaries.

420205. Change in Election. An authorized change in the type of beneficiary eligible for survivor coverage because of a change in the retiree's family status.

420206. Common-Law Marriage. Marriage as defined by pertinent state law. (See section 3505 of this volume.)

420207. Cost of Coverage. The cost for coverage under the plan paid by deductions from retired pay or by direct remittance when member is not receiving retired pay.

420208. Cost Refund. The difference between cost paid by the member and the recalculated cost of the annuity after Dependency and Indemnity Compensation reduction.

420209. Date of Receipt. The day of receipt of an election or election change by the office administering payment of retired pay. The postmarked date of an election may be considered as date of receipt when the validity of such election might be prejudiced because of a limited time factor.

420210. Declination. Member with eligible beneficiaries declines to elect any type of survivor coverage under this plan.

420211. Dependency and Indemnity Compensation Offset. Reduction from SBP annuity due to compensation entitlement from the Department of Veterans Affairs to the widow or widower of a member who dies after December 31, 1956, from a service-connected or comparable disability.

420212. Determination of Presumed Death. The determination by the Secretary of the Military Department concerned (or designee) that a participating member is presumed dead where the member's retired or retainer pay has been suspended or would have been suspended had the member been in a receipt of pay and the member has been missing at least 30 days under circumstances which lead to a reasonable conclusion that the member is dead.

420213. Former Spouse. The surviving former husband or wife of a person who is eligible to participate in the plan.

420214. Maximum Level. Full, gross retired pay used as a base amount for coverage.

420215. Minimum Income Widow. Any person who on September 21, 1972, was or during the period beginning on September 22, 1972, and ending on March 20, 1974, became a widow of a person who was entitled to retired or retainer pay when he died. This individual must meet the eligibility criteria in paragraphs 510101-510104 of this volume.

420216. Missing Status. A member missing, missing in action, interned in a foreign country, captured, beleaguered, besieged by hostile force, or detained in a foreign country against his or her will.

420217. Natural Person With an Insurable Interest. A person who has a reasonable and lawful expectation of pecuniary benefits from the continued life of the participating member. See Chapter 44 of this volume.

420218. Pre- and Post- September 21, 1972 Retiree. Pre-, a member who retired before September 21, 1972; Post-, a member who retires on or after September 21, 1972.

420219. Plan. The Survivor Benefit Plan or SBP.

420220. Recognized Educational Institute. High school, trade school, technical or vocational institute, junior college, college, university, or comparable recognized educational institute.

420221. Reduced Base Amount. An amount less than the member's full gross retired pay but not less than \$300.

420222. Reduction Factor. A four-digit actuarial decimal used to compute the monthly cost for children.

420223. Reserve Component Annuity. An annuity provided by virtue of eligibility under 10 U.S.C. 1448(a)(1)(B) (reference (c)).

420224. Retired Pay. Includes retainer pay.

420225. Social Security Offset. Reduction from SBP annuity due to widow's or widower's social security entitlements based on the member's active service after December 31, 1956.

420226. Standard Annuity. The annuity provided by virtue of eligibility under 10 U.S.C. 1448(a)(1)(A) (reference (c)).

420227. Supplemental Survivor Benefit Plan (SSBP). A supplemental annuity provided to a spouse or former spouse by virtue of eligibility under 10 U.S.C. 1458 (reference (c)).

420228. Surviving Spouse. The widow or widower of a deceased member.

420229. Threshold. This term applies to one of the alternative cost formulas. In the cost formula of 2.5 percent of the first \$XXX.XX, plus 10 percent of the remainder of the base amount, the portion of the base amount upon which the member is charged 2.5 percent cost is the threshold. The threshold is indexed. See section 4902 and Table 49-1 of this volume for threshold amounts.

★420230. Consideration for Contract. The total amount of premiums paid by the participant member for the type of SBP selected. Also see definition for cost of coverage in paragraph 420207, above.

#### 4203 ELIGIBLE PARTICIPANTS

Examples of members eligible to participate in the plan are:

420301. A member who retired before September 21, 1972, and elected coverage under the Plan on or before March 20, 1974, if on September 21, 1973, the member had a spouse and/or dependent children or, if not, elected coverage for a natural person with an insurable interest. If, on September 21, 1973, the member had no spouse or dependent children and later marries or acquires dependent children, the member must elect within 1 year from the date of marriage or acquisition of the children in order to participate.

420302. A member who retires on and after September 21, 1972, and does not decline participation in the Plan before the first day of retirement and who:

- A. Has a spouse or dependent children on date of retirement; or
- B. Has no spouse or dependent children on the date of retirement and before retirement elects coverage for a natural person with an insurable interest; or
- C. Has no spouse or dependent children on date of retirement, but later marries or acquires dependent children and elects within 1 year of the date of marriage or acquisition of the children; or,
- D. Has a former spouse and elects to provide coverage for that former spouse before the first day of retirement (on or after September 8, 1982) or elects former spouse coverage as set out in paragraph 430503 of this volume.

420303. A non-Regular (Reserve) member eligible for retirement under 10 U.S.C. 12731 (reference (c)) who has applied for such pay.

420304. A Member on the Emergency Officers' Retired List (EORL). Members of the EORL are persons who have served as officers of the Army, Navy, or Marine Corps during World War I, other than officers of the Regular Army, Navy, or Marine Corps and who, during such service, incurred a physical disability in the line of duty and were later awarded retired pay under the Tyson-Fitzgerald Act (reference (fa)). These members are paid retired pay by the Department of Veterans Affairs but the coverage is established and maintained by the DFAS.

420305. A Member on the Temporary Disability Retired List (TDRL). Eligibility ends when the member is removed from TDRL without further entitlement to retired pay. The coverage continues when the member is transferred from TDRL to PDRL. If the member's retired pay is reduced to an amount less than the base amount originally elected, the full retired pay to which the member is entitled thereafter is considered the base amount.

420306. A Mentally Incompetent Member. The plan applies to a mentally incompetent member regardless of date of retirement. If retirement was before September 21, 1972, the Secretary of the Military Department concerned may, upon request, elect survivor coverage that the retiree would have been allowed to elect if the member were competent. The Secretary concerned makes the determination concerning the continuance or discontinuance of the RSFPP coverage when electing into the plan. For members retiring after September 20, 1972, the Secretary concerned, upon request, may act on behalf of the member and elect other than the maximum automatic coverage as provided in section 4301 of this volume. In the absence of an eligible spouse or children, the Secretary concerned may, upon request, elect coverage for a natural person with an insurable interest. The person applying to have an election made is not given preference in designation as the beneficiary.

420307. Retirees After a Record Correction

A. A member whose military record is corrected after September 20, 1972, to show retirement before September 21, 1972, is not automatically covered under the plan. Coverage may be established upon request of the member if the election is received within 18 months from the date of notification of the correction action.

B. A member who retroactively becomes entitled to retired pay on a date after September 20, 1972, is automatically given full coverage, unless the member elects reduced coverage or declines participation before the correction action (date of entitlement).

420308. A member may be eligible to participate under open season provisions in section 4309 of this volume.