

## CHAPTER 54

**RESERVE COMPONENT SURVIVOR BENEFIT PLAN –  
ELECTION AND ELECTION CHANGES**5401 ELECTION

540101. Any member who was eligible for retired pay under 10 U.S.C., Chapter 1223 (reference (c)) on September 30, 1978, but who was under age 60, or who received by June 30, 1979, a notification of completion of the years of service required for eligibility of such retired pay, had until September 30, 1979 to make an RCSBP election. Public Law 96-107 (reference (ff)) extended the period to elect participation in the RCSBP. Any member who met the service requirement, but not the age, before September 30, 1978, had through March 31, 1980 to elect RCSBP, to decline RCSBP or to revoke a previous RCSBP election. A member who declined RCSBP or revoked a previous RCSBP election retained eligibility to participate in the SBP at age 60.

540102. Any member who is notified of his or her completion of the years of service required for retired pay eligibility under 10 U.S.C., Chapter 1223 (reference (c)) may elect to participate in the Plan before the end of a 90-day period that begins on the date of such notification. A member who does not participate before the end of the 90-day period remains eligible to participate in the SBP at age 60.

540103. Any Reserve member in receipt of retired pay on August 13, 1981 was eligible to participate in the SBP or to increase RCSBP coverage during the open enrollment period October 1, 1981 through September 30, 1982.

540104. Any Reserve member who was entitled to retired pay under 10 U.S.C., Chapter 1223 (reference (c)), but not yet age 60 on August 13, 1981, was eligible for the open enrollment period October 1, 1982 through September 30, 1983.

540105. Any Reserve member who has a former spouse and dependent child when becoming eligible to participate in the Plan on March 1, 1986, or later, may elect former spouse or former spouse and child coverage, provided the child is the result of the member-former spouse marriage. If the member elected former spouse coverage between September 8, 1982 and February 28, 1986, that former spouse coverage is under the insurable interest category and the election does not include children.

540106. Any Reserve member participating in the Plan with spouse or spouse and child coverage could have changed that election between September 24, 1983 and September 23, 1984, or within 1 year of the date of divorce, dissolution or annulment, whichever is later, to provide an annuity to a former spouse (elections March 1, 1986, or later, may be for former spouse or former spouse and child).

540107. Any member who became a participant between October 19, 1984, and November 8, 1985, could have withdrawn from the Plan between November 8, 1985, and November 7, 1986, except those participating with former spouse coverage on the basis of a deemed election.

540108. Any member who made a former spouse election before November 8, 1985, could have changed that election between November 8, 1985, and November 7, 1986, to provide coverage for former spouse and child provided the child was the result of the member-former spouse marriage.

540109. Any member who elected former spouse coverage before November 8, 1985, could have, with the concurrence of the former spouse, changed that election from former spouse (insurable interest category) to former spouse (spouse category). Such election had to be made between November 8, 1985 and November 7, 1986.

540110. Any member who was a participant before November 8, 1985, and who did not elect former spouse coverage, could have elected former spouse coverage between November 8, 1985 and November 7, 1986.

540111. Any member who, before November 8, 1985, elected former spouse coverage could have changed the election to former spouse and child coverage not later than March 1, 1987. Any member who elected former spouse coverage between November 8, 1985 and February 28, 1986, could have changed the election to former spouse and child coverage not later than November 13, 1987.

540112. Effective April 1, 1992, members who are providing spouse or former spouse coverage at the maximum level may elect Supplemental SBP coverage. A member who anticipates becoming an RCSBP participant with maximum coverage for spouse or former spouse, and who wants Supplemental SBP coverage, must elect RC-SSBP before the day on which the member first becomes a participant in the Plan. If, upon becoming a participant in the Plan, the member is not providing an annuity for spouse or former spouse at the maximum level, any RC-SSBP election shall be void. Certain eligible members were given an opportunity from April 1, 1992 through March 31, 1993, to elect RCSBP, RC-SSBP coverage, or to change RCSBP coverage.

#### 5402 ELECTION DATA

540201. The modified version of DD Form 1883 (Survivor Benefit Plan Election Certificate) and DD Form 1882 (Survivor Benefit Plan Election Change (when available)), are recommended for use by the member. However, any election is acceptable provided it is in writing, contains the information necessary to establish or decline coverage, and is signed by the member. Spousal concurrence of certain elections, however, is required beginning March 1, 1986. A former spouse election by the member will be accompanied by a written statement setting forth whether the election is made pursuant to a voluntary, written agreement previously entered into by the member as a part of, or incident to, a proceeding of divorce, dissolution, or annulment and, if so, whether

such agreement has been incorporated in, or ratified or approved by a court order. On a deemed former spouse election, the Secretary of the Military Department concerned receives a written request, in a manner prescribed by the Secretary, and a copy of the court order, regular on its face, which incorporates, ratifies, or approves the voluntary, written agreement of such person or a statement from the clerk of the court (or other appropriate official) that such agreement has been filed with the court in accordance with applicable state law. The election should show:

A. Identification. Member's name, social security number, date of birth, and date of retirement.

B. Base Amount. A member who participates in the Plan elects a base amount of maximum or reduced coverage. Effective July 1, 1986, a member who receives a 20-year notification of eligibility, and who elects to participate in RCSBP, must elect to cover:

1. One hundred percent of retired pay; or
2. A percentage of retired pay which is less than 100 percent, but which is greater than or equal to \$300 when computed against the amount of retired pay which would be payable as of the effective date of the election; or
3. A given dollar amount which is greater than or equal to \$300, but less than 100 percent of retired pay.

If a member's full retired pay, computed as of the effective date of the election, is less than \$300, he or she must elect to cover 100 percent of retired pay. If the member elects to cover a dollar amount which is greater than 100 percent of his or her retired pay, as computed on the effective date of the election, the election will be considered to be for 100 percent of retired pay. Any dollar election will be converted to a percentage of retired pay as of the effective date of the election. A member making this election should be advised that his or her election will be converted to a percentage of retired pay as would be payable if he or she were 60 years of age on the date the RCSBP election becomes effective and will be based on that same percentage of retired pay regardless of the changes in the retired pay that may occur as a result of pay rate increases, additional points accumulated, or promotion or longevity step increases.

C. Annuity Option. In addition to Option A, Survivor Benefit Plan (SBP), the member has two survivor annuity options, Options B and C.

1. Option A. The member defers a survivor annuity election or declines coverage until age 60. There is no coverage for the years between becoming eligible for retirement and reaching age 60. If the member dies before reaching age 60, no survivor annuity is payable. At age 60, the member may elect to participate in SBP as any other member becoming entitled to retired pay.

2. Option B. The member elects to provide a deferred survivor annuity that begins on the date that would have been the member's 60th birthday, or on the day after the member's death, whichever is later.

3. Option C. The member elects to provide an immediate survivor annuity beginning on the day after the member's death, whether before or after age 60.

D. Coverage. A member may elect coverage for:

1. Spouse and/or children;
2. Former spouse or former spouse and children; or
3. Natural person with an insurable interest (at maximum level of coverage only).

E. Beneficiary. Show the name, birthdate, and social security number for each beneficiary named. If coverage includes spouse, the member must furnish the date of marriage. When the beneficiary is a natural person with an insurable interest, the address and relationship must be shown. For the natural person with an insurable interest, the member must provide a signed statement to show proof of financial benefit if the person designated is more distantly related than cousin.

F. Signature. The member must sign and date the election. Two disinterested persons must witness a document signed by an "X."

NOTE: An election made on behalf of the member through a power of attorney is not valid. Such an election is not binding and is without force or effect of law.

G. Spousal Concurrence. Effective March 1, 1986, a married member who elects RCSBP coverage for less than maximum coverage for the spouse, when the member becomes eligible to participate, must obtain the concurrence of the spouse in writing. If former spouse coverage is elected or deemed, the spouse's concurrence is not required; however, the spouse is notified of the former spouse coverage. (See paragraph 430305 of this volume if spousal concurrence is required.) If the member chooses to defer the SBP decision to age 60; that is, elects Option A, spousal concurrence is not required.

H. SSBP Percentage of Annuity Coverage. A member who elects spouse or former spouse coverage at the maximum level may provide an additional percentage of the base amount in increments of 5, 10, 15, or 20 percent. A member may not make an SSBP election if the spouse or former spouse is entitled to annuity computed under the social security offset method (see 10 U.S.C. 1451(e) (reference (c))). However, the member may elect SSBP if he or she waives the right to have annuity computed under the social security offset method.

5403 IRREVOCABLE ELECTIONS AND DISCONTINUED PARTICIPATION

540301. Elections filed during the 90-day period are irrevocable unless revoked before the expiration of the 90-day period, except under the following circumstances:

- A. The election was revoked before March 31, 1980.
- B. The member discontinues participation as a totally disabled member as described in section 4308 of this volume.
- C. The mentally incapacitated member later is determined to be mentally competent and revokes or changes the RCSBP election within 180 days after such determination of judgment.
- D. The member, who elected to participate between October 19, 1984, and November 8, 1985, elected to withdraw from RCSBP before November 8, 1986, under section 711 of Public Law 99-145 (reference (fc)).
- E. The member elected less than maximum coverage without spousal concurrence and it later is determined by the Secretary of the Military Department concerned that spousal concurrence was appropriate.
- F. The Secretary concerned revokes an election when necessary to correct an administrative error. Revocation or correction based on administrative error is a Secretarial prerogative and, except when procured by fraud, is final and conclusive on all officers of the United States.
- G. The SBP election may be changed to and from former spouse coverage shown in sections 4307 and 5405 of this volume.
- H. Changed retirement eligibility. See section 5405 of this volume.
- ★I. The member voluntarily terminates RCSBP coverage for a natural person with an insurable interest (not a former spouse).

5404 ELECTION COVERAGE540401. Spouse and/or Children

A. A member may elect coverage at the maximum level or at a reduced amount for an eligible spouse, spouse and children, or dependent children only. Spousal concurrence is required on elections for less than maximum spouse coverage. A member with maximum spouse coverage may also elect SSBP coverage.

B. When a member declines coverage for eligible spouse and children beneficiaries, the member is prohibited from later electing in to the Plan except under section 4309 (open enrollment) or section 5405 (changed retirement eligibility). When a member refuses coverage for only one class of eligible beneficiary, apply the same exceptions contained in sections 4309 and 5405 of this volume.

540402. Former Spouse or Former Spouse and Child. A former spouse election prevents an annuity to the member's spouse and child (other than a child beneficiary under a former spouse and child election). The spouse is notified of the member's election for the former spouse. A former spouse or former spouse and child election may be made:

A. When the member becomes eligible to participate. A member who has a former spouse and dependent child when becoming eligible to participate on or after March 1, 1986, may elect former spouse or former spouse and child coverage provided the child is the result of the member-former spouse marriage. The coverage is provided under the spouse category. A former spouse election effective before March 1, 1986 provides coverage under the insurable interest category and the election could not include child coverage. If member elects former spouse coverage at the maximum level under the spouse category, the member also may elect SSBP.

B. After the member becomes eligible to participate but before member meets age and service requirements. A member who elected spouse or spouse and child coverage may, before September 24, 1984, or within 1 year of the date of the decree of divorce, dissolution, or annulment, whichever is later, change that election to provide an annuity to a former spouse or to a former spouse and child. The former spouse is not eligible if he or she was the former spouse that the member had when the member became eligible to participate in the Plan. If the former spouse coverage was in effect before March 1, 1986, the annuity was provided under the insurable interest category and child coverage in conjunction with former spouse coverage was unavailable. A member who elected former spouse coverage before November 8, 1985, may provide annuity for a former spouse and child if that election was made before March 1, 1987. Also, a member who elected former spouse coverage between November 8, 1985 and February 28, 1986, could have provided an annuity for a former spouse and child if that election was made not later than November 13, 1987.

NOTE: An annuity for the former spouse first must be provided under the spouse category before child coverage may be added. A member who elects former spouse coverage at the maximum level under the spouse category may elect SSBP for the former spouse.

C. When the member meets age and service requirements. The former spouse election is considered under the SBP and SSBP program.

D. By the Secretary of the Military Department concerned upon the receipt of a request from the former spouse that an election be deemed for the former spouse. The provisions shown in section 4305 of this volume for deemed former spouse elections under SBP and SSBP apply to RCSBP.

540403. Natural Person With Insurable Interest. An election for a natural person with insurable interest may be made only when there is no eligible spouse or dependent child(ren). There are two exceptions: a person who is unmarried but who has a dependent child may provide coverage for that child under the insurable interest provision; and former spouse elections made between September 8, 1982, and February 28, 1986. A member elects gross retired pay as the base amount under an election for a natural person with an insurable interest.

#### 5405 CHANGES IN ELECTION AND COVERAGE

540501. Later-Acquired Spouse and/or Child. This election must be received within 1 year of the event.

A. If a member has no eligible beneficiary at the end of the 90-day period to elect, or on March 31, 1980, whichever is later, and the member declines to participate, the member later may elect for an eligible class of beneficiary.

B. If a member elects RCSBP spouse coverage and the spouse becomes an ineligible beneficiary through death or divorce, the member may resume spouse coverage upon remarriage.

C. If a member with spouse or spouse and child coverage loses the spouse beneficiary, the member may upon remarriage: resume coverage, increase the level of coverage up to and including full retired pay, or elect not to resume spouse coverage. A member who provides spouse coverage at the maximum level, but who is not a participant in the SSBP, may elect SSBP upon remarriage. The SSBP election is irrevocable and shall be made within one year of the remarriage.

1. The member may not add child coverage by virtue of this marriage alone if child coverage previously was bypassed.

2. The level of RCSBP coverage may not be reduced nor may child coverage be eliminated. The RC-SSBP level may be increased upon remarriage.

3. If the member elects not to resume spouse coverage or provides coverage at less than the maximum level, the spouse is notified.

D. If a member has former spouse or former spouse and child coverage, he or she may later elect RCSBP and SSBP coverage for the newly-acquired spouse and/or child.

E. If a member has insurable interest coverage, he or she may elect coverage for the newly-acquired spouse and/or child.

540502. Change From Spouse or Spouse and Child

A. A member may terminate his or her election and provide an annuity for a former spouse or former spouse and child provided the child is the result of the member-former spouse marriage. See paragraph 430702 and section 5405 of this volume. A member who elects to provide former spouse coverage at the maximum level may include Supplemental SBP coverage.

B. The former spouse may request that the Secretary of the Military Department concerned deem an election for the former spouse.

540503. Change to Former Spouse Election and Coverage

A. A member who has a former spouse and dependent child when becoming eligible to participate in the Plan on or after March 1, 1986, may elect former spouse or former spouse and child coverage, provided the child is the result of the member-former spouse marriage. If the member elected former spouse coverage between September 8, 1982, and February 28, 1986, that coverage is under the insurable interest category and the election does not include children. A member who elects former spouse coverage at the maximum level may elect Supplemental SBP coverage.

B. A member participating in the Plan with spouse or spouse and child coverage could change that election between September 24, 1983 and September 23, 1984, or within 1 year of the date of divorce, dissolution, or annulment, whichever is later, to provide an annuity to a former spouse. (NOTE: Elections made on or after March 1, 1986 or later may be for former spouse or former spouse and child.)

C. A member enters into a voluntary written agreement, incident to a proceeding of divorce, dissolution, or annulment, to elect former spouse coverage and the agreement has been incorporated in, or ratified or approved by, a court order or a member is required by a court order to make an RCSBP election, and the member fails or refuses to make the election, the Secretary concerned may deem an election.

1. The former spouse or the former spouse's attorney requests, in writing, that the Secretary concerned deem an election for former spouse coverage. The former spouse's request must be received before October 1, 1985 or within 1 year of the date of the court order involved, whichever is later.

2. Deemed elections for RC-SSBP coverage operate under the same rules for SBP except that no RC-SSBP elections may be required by court order. Deemed RC-SSBP elections may be made only in instances where there is a voluntary written agreement to elect made by the member and such agreement is properly incorporated in a court order or filed with the court of appropriate jurisdiction. An election may not be deemed for RC-SSBP before April 1, 1992.

D. A member who, before November 8, 1985, made a former spouse election could have changed that election between November 8, 1985, and November 7, 1986, to provide



coverage for former spouse and child, provided the child was the result of the member-former spouse marriage.

E. A member who elected former spouse coverage before November 8, 1985, could have, with the concurrence of the former spouse, changed that election from former spouse (insurable interest category) to former spouse (spouse category). That election had to be made between November 8, 1985, and November 7, 1986.

F. A member who, before November 8, 1985, elected former spouse coverage, could have changed the election to former spouse and child coverage not later than March 1, 1987. Any member who elected former spouse coverage between November 8, 1985, and February 28, 1986, had to change the election to former spouse and child coverage not later than November 13, 1987.

540504. Changed Retirement Eligibility. If a member elects RCSBP coverage and subsequently becomes eligible for retirement under another law, thereby losing eligibility under 10 U.S.C., Chapter 1223 (reference (c)), the RCSBP and RC-SSBP elections remain effective until the member actually retires. A member may then make a new election including a Supplemental SBP annuity election as any other retiring member.

540505. Open Enrollment Periods

A. Public Law 97-35 (reference (bq)), allowed members entitled to retired pay to enroll in SBP, increase a reduced level of coverage, or add spouse coverage to child coverage between October 1, 1981, and September 30, 1982. See section 4309 of this volume for restrictions.

B. Public Law 97-252 (reference (ei)), September 8, 1982, authorized an open enrollment period for Reserve Component members who, on August 13, 1981, would have been entitled to retired pay under 10 U.S.C., Chapter 1223 (reference (c)) but for the fact that they had not reached age 60 on August 13, 1981. Open enrollment extended from October 1, 1982 through September 30, 1983.

1. Members could have enrolled in RCSBP, increased a reduced level of coverage, or added spouse coverage to child coverage. Election information was acceptable in writing rather than on the approved form.

2. There was no authority for eligible members to change the annuity option from immediate to deferred.

3. Elections made by eligible members were effective when received by the Secretary concerned, but not earlier than October 1, 1982.

4. A member could have elected former spouse coverage during the open season. The member could have elected coverage for a former spouse which the member had

when becoming eligible to participate in the Plan between October 1, 1982 and September 30, 1983.

5. A member with suspended spouse coverage under RCSBP could have increased the level of coverage.

C. See section 4305 of this volume for open enrollment periods under Public Laws 98-94 (reference (aj)), 98-525 (reference (ej)), 99-145 (reference (fc)), and 99-661 (reference (ek)) involving elections for a former spouse. Members who elected RCSBP coverage between October 19, 1984, and November 8, 1985, could have elected to withdraw between November 8, 1985, and November 7, 1986, with a refund of any cost plus interest.

D. Certain members were eligible to withdraw from the Plan between March 3, 1988, and March 2, 1989. Under Public Law 100-180 (reference (fd)), a member with spouse or spouse and child coverage who remarried before March 1, 1986, could, with the spouse's concurrence, withdraw from the Plan. There was no refund of cost.

E. Public Laws 101-189 (reference (fb)) and 101-510 (reference (el)) provided an open season between April 1, 1992, and March 31, 1993. A member who was not currently participating in RCSBP could have elected RCSBP. A member who made an open season election for RCSBP coverage for spouse or former spouse at the maximum level could have elected RC-SSBP. A member could have added spouse coverage or increased the base amount of coverage during that open season. A member who already was providing spouse or former spouse coverage at the maximum level could have added Supplemental SBP coverage during that open season.

540506. The SBP Open-Season. The open-season restrictions in section 4309 of this volume apply to RCSBP open-season elections unless otherwise specified above.