

**VOLUME 7B, CHAPTER 42: “SURVIVOR BENEFIT PLAN (SBP) – APPLICATION OF THE PLAN”**

**SUMMARY OF MAJOR CHANGES**

All changes are denoted by **blue font**.

Substantive revisions are denoted by an asterisk (\*) symbol preceding the section, paragraph, table, or figure that includes the revision.

Unless otherwise noted, chapters referenced are contained in this volume.

Hyperlinks are denoted by **bold, italic, blue, and underlined font**.

The previous version dated **May 2015** is archived.

<b>PARAGRAPH</b>	<b>EXPLANATION OF CHANGE/REVISION</b>	<b>PURPOSE</b>
All	Updated hyperlinks and formatting to comply with current administrative instructions.	Revision
420101	Added a “Purpose” paragraph.	Addition
4203	Added new section to comply with current administrative instructions. Information previously in 4202.	Addition
4204	Added new section to comply with current administrative instructions. Information previously in 420105.	Addition
420423	Updated the threshold amount for 2017.	Revision
Bibliography	Updated Bibliography accordingly.	Revision

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## CHAPTER 42

**SURVIVOR BENEFIT PLAN (SBP) - APPLICATION OF THE PLAN**

## 4201 GENERAL

## \*420101. Purpose

This chapter provides an overview of the establishment of the SBP (referred to as the Plan), eligibility and benefits, and specialized terminology and definitions used when referring to the Plan.

## 420102. Authoritative Guidance

The bibliography at the end of this chapter lists the authoritative references.

## 4202 SBP OVERVIEW

## 420201. Establishment of SBP

On September 21, 1972, Public Law 92-425 established the SBP to provide a survivor benefit program for military personnel in retirement to complement the survivor benefits under Social Security laws. The Plan gives all retiring Uniformed Services retirees an opportunity to elect to have their retired pay reduced by a designated amount in order to provide their survivors an annuity payable after the retiree's death.

A. Under the 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.

B. The Plan provides, without cost, a minimum guarantee to a widow or widower of a member who died before March 21, 1974. For additional information, see Chapter 46. 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.

## 420202. Additional Coverage

The Plan also includes:

A. Survivor benefits for the surviving spouse, dependent child, or former spouse of a member who dies on active duty;

B. A Reserve Component (RC) annuity on behalf of a member who is eligible to provide an RC annuity and dies:

1. Before notification of retirement eligibility;

2. During the 90-day period following notification of retirement eligibility if the member had not made an election; and

C. An RC annuity on behalf of a member who, under certain circumstances, dies in the line of duty during inactive duty training (IDT). See Chapter 54.

420203. Death Presumption Authority

A. 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. Upon application of the beneficiary of a participant in the Plan who is missing, the Secretary of the Military Department concerned may determine that the participant is presumed dead.

B. A determination of presumed death is a determination by the Secretary of the Military Department concerned (or designee) that a participating member is presumed dead if:

1. The member's retired or retainer pay has been suspended or would have been suspended had the member been in receipt of pay; and

2. The member has been missing at least 30 days under circumstances that lead to a reasonable conclusion that the member is dead.

\*4203 ELIGIBLE MEMBERS

420301. Members Eligible to Participate in the Plan

The following members are eligible to participate in the Plan:

A. Members entitled to retired pay; and

B. Members who would be eligible for RC retired pay, but have not yet become entitled to receive retired pay because of age. See Chapter 54.

420302. Participants in the Plan

A. Standard Annuity Participants. The Plan applies to a person who is eligible to participate in the Plan under subparagraph 420301.A and who is married or has a dependent child when the member becomes entitled to retired pay, unless the member elects (with the spouse's concurrence, if required) not to participate in the Plan.

B. RC Annuity Participants. The Plan applies to a person who is eligible to participate in the Plan under subparagraph 420301.B and is married or has a dependent child when the member is notified that he or she has completed the years of service required for eligibility for RC retired pay, unless the member elects (with spousal concurrence, if required) not to participate in the Plan. Note: If such member elects not to participate in the Plan (chooses option "A") upon

becoming entitled to retired pay, the member may elect to participate in the Plan as a Standard annuity participant under subparagraph 420302A.

420303. Exceptions

A member otherwise eligible according to subparagraph 420302.A or B, except that:

A. The member does not have a spouse or dependent child and did not elect coverage for a former spouse (if applicable) at the time of eligibility for the program, may elect coverage for a person who has an insurable interest in the member; or

B. The member does not have a spouse or dependent child at the time of eligibility for the program, may elect SBP or Reserve Component Survivor Benefit Plan (RCSBP) coverage upon notification to the Secretary concerned within the 1-year period after acquiring a spouse or dependent child. Such an election must be written, signed by the person making the election, and received by the Secretary concerned. An election is effective as of the first day of the first month following the month in which the Secretary concerned receives the election.

420304. Member on the Temporary Disability Retired List (TDRL)

A member's 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 Permanent Disability Retired List (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.

420305. Mentally Incompetent Member

If a person to whom the Plan applies is determined to be mentally incompetent, the Secretary of the Military Department concerned, upon request, may act on behalf of the member and elect other than the maximum automatic coverage. In the absence of an eligible spouse or children, the Secretary of the Military Department concerned, upon request, may 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.

420306. Qualifying Member During an Open Enrollment Period

The Plan applies to any member who qualifies during an open enrollment period according to the provisions established by law. Open enrollment periods typically occur when there are major changes to the SBP program and must be specifically prescribed by law.

**420307. Retired Member After a Record Correction**

**A.** A member whose military record is corrected on or 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 on or after September 20, 1972, generally will be given automatic full coverage, unless the member elects reduced coverage or declines participation, with proper concurrence of the eligible spouse, if applicable.

**\*4204 DEFINITIONS****420401. Base Amount**

**A.** The base amount is the money amount selected by the member, with the concurrence of the member's spouse if required, or the amount selected on behalf of a member by the Secretary of the Military Department concerned (or designee), on which the annuity is based.

**B.** The base amount may range from a \$300 minimum up to full gross retired pay entitlement. Note: For a member who selected the Career Status Bonus (CSB), the amount is based on unreduced retired pay, not considering any reduction under 10 U.S.C. [§ 1409\(b\)\(2\)](#). Once selected, the base amount is adjusted consistent with cost-of-living increases in retired pay. If advancement or change from the TDRL to PDRL occurs, 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.

**420402. Change in Coverage**

A change in coverage is an action taken because of a change in the member's family status that requires a change in beneficiaries.

**420403. Change in Election**

A change in election is an authorized change in the type of beneficiary eligible for survivor coverage because of a change in the retiree's family status.

**420404. Consideration for Contract**

The total amount of premiums paid by the participant member for the type of SBP selected is known as consideration for contract.

**420405. Cost of Coverage**

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

**420406. Cost Refund**

A cost refund is the difference between cost paid by the member and the recalculated cost of the annuity after Dependency and Indemnity Compensation (DIC) reduction.

**420407. Date of Receipt**

The date of receipt is 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.

**420408. DIC Offset**

DIC offset is the reduction of the SBP annuity due to compensation entitlement from the Department of Veterans Affairs to the widow or widower of a member who dies from a service-connected or comparable disability.

**420409. Former Spouse**

A former spouse is the surviving former husband or wife of a person who is eligible to participate in the Plan.

**420410. Maximum Level**

The maximum level is the the full, gross retired pay used as a base amount for coverage. A member who elected to receive a CSB [will](#), at the time of program election, have the maximum base amount computed as if that member had not been subject to the Military Retirement Reform Act of 1986 (referred to as REDUX) under 10 U.S.C. § 1409(b)(2).

**420411. Minimum Income Widow**

A minimum income widow is a person who on September 21, 1972 was, or during the period beginning on September 22, 1972 and ending on March 20, 1974 became, the widow of a person who was entitled to retired or retainer pay when they died. This individual must have income below the threshold and meet the eligibility criteria in Chapter 46.

**420412. Natural Person With an Insurable Interest**

A natural person with an insurable interest is a person who has a reasonable and lawful expectation of pecuniary benefits from the continued life of the participating member. For further information, see Chapter 44.

**420413. Pre- and Post-September 21, 1972 Retiree**

A pre-September 21, 1972 retiree is a member who retired before September 21, 1972; a post-September 21, 1972 retiree is a member who retired on or after September 21, 1972.

**420414. Reduced Base Amount**

The reduced base amount is an amount less than the member's full gross retired pay but not less than \$300.

**420415. Reduction Factor**

The reduction factor is a four-digit actuarially determined decimal used to compute the monthly cost for reservists who become entitled to receive retired pay before age 60.

**420416. RC Annuity**

The RC annuity is the annuity provided to the survivor(s) of a reservist, who completed the years of service required for eligibility for RC retired pay or was a member of an RC and died in the line of duty during IDT. For additional information about the RCSBP, see Chapter 54.

**420417. Recognized Educational Institute**

A recognized educational institute means the high school, trade school, state law compliant home school (effective May 8, 2013), technical or vocational institute, junior college, college, university, or comparable educational institution. The term also includes home schools that operate in compliance with the compulsory attendance laws of the states in which they are located, whether treated as private schools or home schools under state law. The term "home school" is limited to courses of instruction for grades kindergarten through 12 only.

**420418. Retired Pay**

Retired pay includes retainer pay.

**420419. Social Security Offset**

Social Security offset means a reduction from the SBP annuity due to the widow's or widower's Social Security entitlements. Social Security offset was eliminated effective April 1, 2008.

## 420420. Standard Annuity

The **standard** annuity **is the annuity** provided to a survivor(s) by virtue of eligibility of persons entitled to retired pay.

## 420421. Supplemental Survivor Benefit Plan (SSBP)

A supplemental annuity **is the annuity** provided to a spouse or former spouse. SSBP was repealed effective April 1, 2008.

## 420422. Surviving Spouse

A surviving spouse applies to:

## A. The surviving husband or wife of a retired member:

1. Married to the member at the time the member became eligible for retired pay. Members of the **RC** become eligible for retired pay upon completion of the requisite years of service necessary to become entitled to retired pay at a later age; or

2. If not married to the member at the time the member became eligible for retired pay:

a. Was married to the member for at least one year before **the member's** death, or

b. Is the parent of issue by that marriage;

B. The surviving **spouse** of a member who dies while on active duty:

1. While in the line of duty,

2. After becoming eligible to receive retired pay,

3. After qualifying for retired pay except that the member has not applied for or been granted that pay, or

4. After completing 20 years of active service but before the member is eligible to retire as a commissioned officer, because the member has not completed the **required years** of active commissioned service (**usually 10 years**);

C. The surviving **spouse** of a member who is eligible to provide an **RC** annuity and dies:

1. Before being notified under U.S.C. § 12731(d) that **the member** has completed the years of service required for eligibility for **RC** retired pay, or

2. During the 90-day period beginning on the date [the member](#) receives notification under 10 U.S.C. § 12731(d) that they have completed the years of service required for eligibility for [RC](#) retired pay if an election to participate in the Plan was not made, provided:

a. That the parties were married at the time the member became eligible for retired pay; or

b. If not married at the time the member became eligible for retired pay, was married to the member for at least one-year before [the member's](#) death, or is the parent of issue by that marriage; or

D. The surviving [spouse](#) of a member of an [RC](#) not described in [subparagraphs 420401.E.1, 2, or 3](#) who dies before being eligible to elect to participate in the Plan from an injury or illness incurred or aggravated in the line of duty during [IDT](#).

\* [420423](#). Threshold

A [threshold](#) 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 Chapter 45](#). In 2017, the threshold is \$799.

## \*BIBLIOGRAPHY

## CHAPTER 42 - SURVIVOR BENEFIT PLAN (SBP) - APPLICATION OF THE PLAN

## 4202 - SBP OVERVIEW

420201	Department of Defense (DoD) Instruction 1332.42, June 23, 2009 10 U.S.C., Chapter 1223 10 U.S.C. § 1448-1452 DoD Directive 1332.27, June 26, 2003 53 Comptroller General (Comp Gen) 847 (B-179018), May 10, 1974 and August 6, 1976 53 Comp Gen 971 (B-179018), June 18, 1974 <a href="#">10 U.S.C. § 1448(f)</a>
420203	10 U.S.C. § 1450(l)(1)

## 4203 - ELIGIBLE MEMBERS

420301 - 420304	10 U.S.C. § 1448
420305	10 U.S.C. § 1449
420306	10 U.S.C. § 1448
420307	54 Comp Gen 116 (B-180050), August 14, 1974

## \*4204 - DEFINITIONS

<a href="#">420401.A</a>	10 U.S.C. § 1447(6)
<a href="#">420404</a>	26 U.S.C. § 122(b)(2)
<a href="#">420408</a>	10 U.S.C. § 1450(c) and 1451(c)(2)
<a href="#">420409</a>	10 U.S.C. § 1447(6)(A)
<a href="#">420411</a>	10 U.S.C. § 1448
<a href="#">420415</a>	10 U.S.C. § 1447
<a href="#">420416</a>	10 U.S.C. § 1447
<a href="#">420417</a>	10 U.S.C. § 1447
<a href="#">420418</a>	10 U.S.C. § 1447
<a href="#">420420</a>	10 U.S.C. § 1451(e)(3) and (4)
<a href="#">420421</a>	10 U.S.C. § 1447
<a href="#">420422</a>	10 U.S.C. § 1447
	10 U.S.C. § 12731(d)
<a href="#">420422.B.4</a>	10 U.S.C. § 1448(d)(1)(A)(iii)