

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 August 2012 is archived.

PARAGRAPH	EXPLANATION OF CHANGE/REVISION	PURPOSE
All	Updated the hyperlinks and revised to the chapter to comply with current administrative instructions.	Revision
420102	Added the authoritative guidance paragraph.	Addition
420104	Incorporated previous paragraph 420213 into 420103.	Revision
420104.N	Expanded the definition of Recognized Educational Institute to include state law compliant home school, according to e-mail justification by Personnel & Readiness and DFAS-OGC.	Revision
420104.V	Expanded the definition of Surviving Spouse including clarification of Standard and Reserve-Component Annuity.	Addition
4202	Changed section title name and listed eligible members.	Revision
420201 and 420202	Provided additional information on eligible Plan participants.	Revision
420203	Expanded on the exceptions provided for Plan participants.	Revision
420206	Changed paragraph title and provided additional details on the Survivor Benefit Plan open enrollment period.	Revision
Bibliography	Updated bibliography accordingly.	Revision

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CHAPTER 42

SURVIVOR BENEFIT PLAN (SBP) - APPLICATION OF THE PLAN

*4201 GENERAL

420101. [Overview](#)

The Survivor Benefit Plan ([the Plan or SBP](#)) [was](#) established September 21, 1972. [The Plan](#) provides a survivor benefit program for military personnel in retirement to complement the survivor benefits under Social Security laws. This 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 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.

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.

*420102. [Authoritative Guidance](#)

[The bibliography at the end of this chapter lists the authoritative references.](#)

420103. [Additional Survivor Benefits](#)

The Plan includes survivor benefits for the surviving spouse, dependent child, or former spouse of a member who dies on active duty, or a Reserve Component (RC) annuity on behalf of a member who dies before notification of retirement eligibility, or during the 90-day period following notification of retirement eligibility if member had not made an election or, under certain circumstances, if the member dies in the line of duty during inactive duty training.

*420104. [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 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.

*420105. Specialized Terms and Definitions

A. Base Amount

1. 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.

2. This 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 Title 10, United States Code, section 1409(b)(2) (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 Temporary Disability Retired List (TDRL) to Permanent Disability Retired List (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.

B. 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.

C. 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.

D. 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.

E. Cost of Coverage. The term 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.

F. 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.

G. 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.

H. Dependency and Indemnity Compensation (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.

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

J. Maximum Level. The full, gross retired pay used as a base amount for coverage **is the maximum level.** A member who elected to receive a **CSB** shall, 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).

K. Minimum Income Widow. 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 he died. This individual must have income below the threshold and meet the eligibility criteria in section 4615.

L. 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**, paragraph 440205.

M. 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.

*** N. Recognized Educational Institute.** The term 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 schools” is limited to courses of instruction for grades kindergarten through 12 only.**

O. Reduced Base Amount. The reduced base amount **is an** amount less than the member’s full gross retired pay, but not less than \$300.

P. Reduction Factor. **The reduction factor is** a four-digit actuarial decimal used to compute the monthly cost for children.

Q. Reserve Component (RC) Annuity. An annuity provided by virtue of the eligibility of a person who would be eligible for RC retired pay but for the fact that they are under 60 years of age or is a member of a RC and dies in the line of duty during inactive duty training. For additional information about the RC Survivor Benefit Plan, see Chapter 54.

R. Retired Pay. The term retired pay includes retainer pay.

S. Social Security Offset. The term 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.

T. Standard Annuity. The annuity provided by virtue of eligibility of persons entitled to retired pay.

U. Supplemental Survivor Benefit Plan (SSBP). A supplemental annuity provided to a spouse or former spouse. SSBP was repealed, effective April 1, 2008.

* V. Surviving Spouse. Surviving spouse means:

1. The surviving husband or wife of a retired member:

a. Married to the member at the time the member became eligible for retired pay. Members of the reserve component 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

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

(1) Was married to the member for at least one-year before his/her death, or

(2) Is the parent of issue by that marriage, or

2. The surviving husband or wife of a member who dies while on active duty:

a. While in the line of duty, or

b. After becoming eligible to receive retired pay, or

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

d. 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 10-year of active commissioned service, or

3. The surviving husband or wife of a member who is eligible to provide a reserve-component annuity and dies before being notified under section 10 U.S.C. §12731(d) that he has completed the years of service required for eligibility for reserve-component retired pay, 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, either:

(1) Was married to the member for at least one-year before his/her death, or

(2) Is the parent of issue by that marriage, or

4. The surviving husband or wife of a member who is eligible to provide a reserve-component annuity and dies during the 90-day period beginning on the date he receives notification under section 10 U.S.C § 12731(d) that he has completed the years of service required for eligibility for reserve-component retired pay if he had not made an election to participate in the Plan, provided:

a. That the parties were married at the time the member became eligible for retired pay, or if not married at the time the member became eligible for retired pay, either:

(1) Was married to the member for at least one-year before his/her death or,

(2) Is the parent of issue by that marriage, or

5. The surviving husband or wife of a member of a reserve component not described in paragraphs 3 or 4 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 inactive-duty training.

W. 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.

4202 ELIGIBLE MEMBERS**420201. 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 for the fact that they are under 60 years of age.

***420202. Participants in the Plan**

The Plan applies to the following persons, who shall be participants in the Plan:

A. Standard Annuity Participants. A person who is eligible to participate in the Plan under 420201.A and who is married or has a dependent child when he becomes entitled to retired pay, unless he elects (with his spouse's concurrence, if required), not to participate in the Plan.

B. Reserve Component (RC) Annuity Participants. A person who (i) is eligible to participate in the Plan under paragraph 420201.B and (ii) is married or has a dependent child when he is notified that he has completed the years of service required for eligibility for reserve-component retired pay, unless the person elects (with his spouse's concurrence, if required) not to participate in the Plan. Note: If such member elects not to participate in the Plan, eligibility remains upon reaching 60 years of age and becoming entitled to retired pay, to participate in the Plan as a Standard annuity participant under paragraph 420202.

***420203. Exceptions**

A member otherwise eligible according to subparagraph 420202.A or B, except that:

A. A member who 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.

B. A member who does not have a spouse or dependent child at the time of eligibility for the program may elect SBP or 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 shall be effective as of the first day of the first month following the month in which the Secretary concerned receives the election.

420204. 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 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.

*420205. Mentally Incompetent Member

If a person to whom the Plan applies is determined to be mentally incompetent, the Secretary 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 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.

*420206. 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 occur only when there are major changes to the SBP program and must be specifically prescribed by law.

420207. Retired Member 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, 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.

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