

VOLUME 7B, CHAPTER 43: “SURVIVOR BENEFIT PLAN (SBP) - ELECTIONS AND ELECTION CHANGES”

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 **April 2015** is archived.

PARAGRAPH	EXPLANATION OF CHANGE/REVISION	PURPOSE
All	Updated formatting to comply with current administrative instructions.	Revision
430101	Added "Purpose" paragraph.	Addition
430203	Added information concerning a deferred annuity for clarification.	Addition
430204.C	Added information for reduction of insurable interest coverage for clarification.	Addition
430504.D	Added information to comply with the National Defense Authorization Act (NDAA) Fiscal Year (FY) 2016.	Addition
430802	Added information for former spouse open enrollment based on the NDAA FY 2016.	Addition
Bibliography	Added Public Law 114-92 dated November 25, 2015.	Addition

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CHAPTER 43

SURVIVOR BENEFIT PLAN (SBP) - ELECTIONS AND ELECTION CHANGES

4301 GENERAL

*430101. Purpose

The purpose of this chapter is to provide information for SBP election options, changes to elections, coverage, and termination of coverage.

430102. Authoritative Guidance

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

4302 ELECTION OPTIONS

430201. Base Amount

A member who participates in SBP must elect a base amount of maximum coverage or reduced coverage. The base amount at any level is adjusted with each cost-of-living increase after retirement. See Chapter 49. The annuity amount is 55 percent of the base amount elected.

430202. SBP Elections

In the case of a member electing a standard SBP annuity, the member must make such election before retired pay becomes payable, or if there is no eligible beneficiary at that time, within 1 year of acquiring an eligible beneficiary.

*430203. Reserve Component SBP (RCSBP) Elections

In the case of a member electing a Reserve Component annuity, the member must designate either an immediate or deferred annuity. The beneficiary of a Reserve Component member who elects an immediate annuity or who dies while eligible to make such an election will have that annuity commence the day following the death of the member. In the case of a member electing a deferred annuity, the annuity commences the later of the day following the member's death, or the date the member would have been age 60.

*430204. Special Rules Concerning Elections

A. In the case of a member electing SBP or RCSBP coverage for a spouse who was not married to the member at the time the member became eligible for retired pay, the surviving spouse must have been married to the member for at least 1 year immediately prior to the member's death or be the parent of issue by that marriage to be an eligible beneficiary.

B. A member who did not elect child coverage for a dependent child, either at the time of becoming eligible for retired pay (if applicable) or within 1 year of acquiring the first dependent child, may not elect child coverage for subsequently acquired child or children unless otherwise provided by law.

* C. A member who elected insurable interest coverage under Chapter 42 [may](#) upon death of such beneficiary, elect to cover a new beneficiary who is a natural person with an insurable interest in the member. Such an election must be made prior to the end of the 180-day period beginning on the date of the death of the previous beneficiary. The member is required to pay, if applicable, an additional amount [and interest](#). [The additional amount is](#) equal to the difference in the amount of the reduction in the member's retired pay for the previous beneficiary and the reduction in retired pay that would have been made had the previous beneficiary not died and been a covered beneficiary through the date of the new election. [The interest on the additional amount is](#) computed from the date on which the retired pay would have been reduced [and charged](#) at such rate or rates as determined by the Secretary of Defense.

D. In the case of a member who is already participating in the SBP and elects to change spouse coverage or spouse and child coverage to former spouse coverage or former spouse and child coverage, any such election terminates any previous coverage under the [SBP](#).

430205. Beneficiaries

Coverage may be provided for:

- A. Spouse and/or child;
- B. Former spouse or former spouse and child; or
- C. Natural person with an insurable interest (at maximum level of coverage only).

4303 ELECTION DATA

430301. Elections by the Member

Department of Defense (DD) Form [DD 2656](#), Data for Payment of Retired Personnel, [DD 2656-1](#), Survivor Benefit Plan (SBP) Election Statement for Former Spouse Coverage, [DD 2656-2](#), Survivor Benefit Plan (SBP) Termination Request, [DD 2656-6](#), Survivor Benefit Plan Election Change Certificate, when available, are recommended for use by the member. Elections in writing signed by the member, other than a request for termination, which contain all information necessary for establishing or declining coverage, are acceptable. Spousal concurrence of certain elections has been required since March 1, 1986.

A. Former Spouse Elections (Retiring Members). A member who is retiring and is electing former spouse coverage should complete the former spouse election on a

DD 2656. In addition to the former spouse election, the member must also provide a separate written statement on a DD 2656-1 (when applicable), that is signed by the member and the former spouse certifying whether the former spouse election is pursuant to court order or a voluntary written agreement. Information concerning content of the separate written statement and the proper court order appears in paragraph 430504.

B. Change in Election Coverage Spouse to Former Spouse (Retired Members). Members who are already retired should complete changes from spouse coverage to former spouse coverage on a DD 2656-1.

430302. Deemed Elections Requested By the Former Spouse

A former spouse or former spouse's legal representative requesting the Secretary concerned to deem on his/her behalf must request the deemed election by completing the DD 2656-10, Survivor Benefit Plan (SBP)/Reserve Component (RC) SBP Request for Deemed Election, and must be accompanied by a court order or a statement from the clerk of the court. Both the DD 2656-10 and court order must be provided. Information concerning content of the request by the former spouse or the former spouse's legal representative and the statement from the clerk of the court, where necessary, appears in subparagraph 430504.C.

430303. Election Data Requirements

The election data requirements are:

A. Identification. Enter the member's name, social security number, birth date, and date of retirement.

B. Base Amount. The election form must specify full coverage, in lieu of a dollar amount, when maximum coverage is selected. When a reduced base amount is chosen, the dollar amount must be specified on the election form. The reduced base amount must not be less than \$300. When retired pay is less than \$300, the election form must indicate full coverage.

C. Beneficiary. Provide the name, birth date, and social security number for each beneficiary named.

1. If coverage includes spouse, or former spouse, the member must provide the date of marriage and divorce, as applicable.

2. 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 a cousin or anyone more distantly related than cousin if such statement is requested.

3. If the beneficiary designation is for a former spouse, then, in addition to the former spouse election, the member **must** set forth in writing whether the election is being made pursuant to a written agreement previously entered into voluntarily by the member

as a part of or incident to a proceeding of divorce, dissolution, or annulment and (if so), whether that voluntary written agreement has been incorporated in, ratified or approved by, a court order. This information should be provided on a DD 2556-1.

D. Signature. The member must sign and date the election. If the document is signed with an “X”, two impartial persons must witness the signature. 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.

E. Spousal Concurrence. Written spousal concurrence is required when the member elects to decline coverage or provide the spouse with less than the maximum SBP coverage available, to include electing child-only coverage, and when a member eligible for RCSBP declines coverage or elects coverage that provides less than a maximum immediate spouse annuity. The signature of the spouse must be notarized. The requirement to have the spouse’s signature notarized is not to suggest that the spouse has received additional counseling regarding the option being selected. It simply provides certification that the spouse signed the form [and acknowledges the election made on the form](#).

1. If all requirements for an election needing the spouse’s concurrence have not been satisfied prior to retirement, for whatever reason, full spouse costs and coverage will be implemented, regardless of any request by the member to do otherwise. In such cases, when the member has requested any form of child coverage, full spouse and child coverage will be implemented. A spouse’s concurrence with, or request for, an election other than that requested by the member, will be disregarded. Any change in SBP election subsequent to retirement will be done through an administrative correction of records as permitted by law. The requirements for spousal concurrence do not affect any obligation or right of the member to provide coverage for a former spouse. If former spouse coverage is elected or deemed, the spouse’s concurrence is not required; however, the spouse will be notified of that election.

2. The Secretary concerned may waive the requirement for spousal consent when the spouse’s whereabouts cannot be determined or, when due to exceptional circumstances, requiring the member to seek the spouse’s consent would otherwise be inappropriate. Exceptional circumstances, such as mental or physical incapacitation of the spouse, require appropriate documentation such as a physician’s statement attesting to the spouse’s incapacity. Exceptional circumstances will be evaluated on a case-by-case basis.

3. The Secretary concerned notifies the member’s current spouse when a member who is eligible to provide an annuity to that spouse elects former spouse or former spouse and dependent child coverage.

4. The Secretary concerned notifies the affected beneficiary when a member elects to discontinue coverage for a former spouse or insurable interest beneficiary.

4304 IRREVOCABLE ELECTIONS, CORRECTIONS AND DISCONTINUED PARTICIPATION

430401. Election Exceptions

An election is irrevocable, except under the following circumstances:

A. A member retired March 1, 1986, or later, who elected and received less than maximum SBP coverage without the spouse's concurrence, will have such coverage changed to full coverage if the Secretary concerned later determines that the spouse's concurrence in such election was appropriate, but not obtained;

B. A member may voluntarily discontinue SBP participation during the 1-year period beginning on the second anniversary of the date of commencement of retired pay under paragraph 430701;

C. The Secretary concerned may revoke 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;

D. A member may voluntarily discontinue participation as a totally disabled member, [as rated by the Department of Veteran Affairs \(VA\)](#), under paragraph 430704;

E. A member may voluntarily terminate SBP coverage for a natural person with an insurable interest (not a former spouse) under paragraph 430702; or

F. A mentally incapacitated member who is later determined to be mentally competent may revoke or change the SBP election within 180 days after such determination of judgment.

430402. Election Changes

The SBP election may be changed as explained in sections 4306 and 4307.

4305 ELECTION COVERAGE

430501. Spouse and/or Child

A. A member may elect coverage at the maximum level or at a reduced amount with spouse's concurrence, if required, for:

1. An eligible spouse only;
2. An eligible spouse and dependent child; or
3. Dependent child only.

B. Every retiring member who is married at retirement is automatically enrolled in SBP for full coverage unless the spouse consents in writing to reduced coverage or no coverage before the first day of eligibility to retired pay. See subparagraph 430501.D.

C. A member with an eligible spouse and dependent child on the date of retirement who:

1. Declines coverage is prohibited from electing into the SBP, except under section 4308;

2. Refuses coverage for an eligible spouse, and chooses to elect coverage for child only, is prohibited from electing spouse coverage at a later date, except under section 4308; or

3. Refuses coverage for the member's dependent child, and elects coverage for spouse only, is barred from electing child coverage at a later date.

D. A married member who is eligible to provide SBP may not, without the concurrence of their spouse, decline participation in SBP, elect a reduced annuity for the spouse, or elect an annuity for a dependent child, but not for a spouse, unless the member establishes to the satisfaction of the Secretary concerned that:

1. The spouse's whereabouts cannot be determined; or

2. Due to exceptional circumstances, a requirement that the member seek the spouse's consent would otherwise be inappropriate.

E. A member with a dependent child, who was unmarried on the date of retirement, may elect spouse coverage upon subsequent marriage regardless of whether coverage was elected for their dependent child. The election must be received by the Secretary concerned within 1 year of the marriage date.

F. A member with an eligible spouse who did not have a dependent child on date of retirement later may elect coverage for a dependent child. The election must be received by the Secretary concerned within 1 year of the date of acquiring a dependent child or children.

G. If a member elects to provide an SBP annuity for a former spouse or a former spouse and child and the member has remarried, the member's spouse must be notified of that election. The member may make this election without spousal concurrence.

430502. Same-Sex Spouses

A. Any claims to SBP spouse coverage for same-sex spouses of eligible SBP participants for periods before June 26, 2013, are not valid as the Defense of Marriage Act was still the law and in effect prior to June 26, 2013. As a result, no SBP premiums for such coverage will be charged prior to June 26, 2013. Further, no SBP annuity payments for such coverage will be paid for deaths occurring before June 26, 2013.

B. Effective on June 26, 2013, a person who becomes eligible to participate under [Title 10, United States Code \(U.S.C.\), section 1448\(a\)\(1\)](#) and is married to a same-sex partner has the SBP program applied as for any other married couple under 10 U.S.C. § 1448, including the requirements for spousal consent for less than full annuity coverage of the spouse.

C. A person who was married to a same-sex partner upon becoming eligible to participate in the plan prior to June 26, 2013, and who had married that same-sex partner before June 26, 2013, had 1 year from June 26, 2013, to make a spouse election under 10 U.S.C. § 1448(a)(3). Such person may not participate at less than maximum coverage described in 10 U.S.C. § 1448(a)(3) without the concurrence of the person's spouse unless they already had provided an annuity for a dependent child. If an election was not received on or before June 25, 2014, full spousal coverage was entered and the member was responsible for payment of premiums effective from June 26, 2013.

D. A person who was not married upon becoming eligible to participate in the plan, but who married a same-sex partner before June 26, 2013, had 1 year from June 26, 2013, to make a spouse election under 10 U.S.C. § 1448(a)(5). The election must have been received on or before June 25, 2014, or the person was prohibited by law from making such election.

E. Generally, a person who is a participant in the plan and is providing coverage under SBP for a spouse, who later does not have an eligible spouse beneficiary may, under 10 U.S.C. § 1448(a)(6), elect not to provide coverage for a new spouse in the event of a remarriage.

1. For a person who enters into a same-sex marriage after June 26, 2013, the election to discontinue participation under 10 U.S.C. § 1448(a)(6) must be made within 1 year of the remarriage. If a member does not discontinue participation, pursuant to 10 U.S.C. § 1448(a)(6), spouse coverage will resume effective on the first anniversary of the marriage.

2. If the remarriage took place prior to June 26, 2013, the participant has 1 year from June 26, 2013 to elect out of SBP. If a member does not make such an election within 1 year of June 26, 2013, pursuant to 10 U.S.C. § 1448(a)(6), spouse coverage will resume effective no earlier than June 25, 2014.

3. Any such person falling within the parameters of 10 U.S.C. § 1448(g), had 1 year from June 26, 2013, or the date of any marriage subsequent to June 26, 2013, to elect to increase the level of coverage under 10 U.S.C. § 1448(g).

F. A person who is married to a same-sex partner on June 26, 2013, and has insurable interest coverage under 10 U.S.C. § 1448(b) may terminate the insurable interest coverage as provided for in that section and, if eligible, elect spouse coverage under 10 U.S.C. § 1448(a)(5) as described in paragraph 430504.C.

430503. Natural Person with Insurable Interest

An election for a natural person with an insurable interest may be made only when the member is not married and does not have any dependent children upon becoming eligible to participate. The Secretary concerned must receive the election before the first day of eligibility for retired pay. A member must elect full coverage when electing for a natural person with an insurable interest. If the member is retired for reasons of disability under [10 U.S.C. Chapter 61](#), refer to paragraph 430703.

*430504. Former Spouse or Former Spouse and Child

When a member elects former spouse coverage, the member and the former spouse must complete an election statement indicating whether the election is being made pursuant to the requirements of a court order or by a voluntary written agreement. If the member entered into a voluntary written agreement as a part of, or incident to, a proceeding of divorce, dissolution or annulment, the member must indicate on the written statement whether the agreement has been incorporated in, ratified or approved by, a court order. If the member has a spouse or child, a former spouse election prevents an annuity to that spouse or child (other than the child beneficiary under an election for a former spouse and child). If there is more than one former spouse, the member must designate which former spouse is to receive the annuity:

A. Upon Retirement (Retiring Members)

1. If a member becomes eligible to participate and has a former spouse and dependent child, who resulted from that marriage, they may elect former spouse or former spouse and child coverage.

2. If the former spouse is the member's former spouse at the time the member becomes eligible to participate in SBP, an election for former spouse must take place at or before the member's retirement.

3. If the former spouse is the member's former spouse at the time the member becomes eligible to participate in RCSBP (date of Notice of Eligibility (NOE)), an election for former spouse must take place at or before the end of the 90-day period following receipt of the NOE.

4. If a member has a former spouse upon becoming eligible to participate, but is not required by a court order or court-approved agreement to provide former spouse coverage, any subsequent court order that requires former spouse coverage will not be honored.

B. Following Retirement (Retired Members)

1. A member with spouse or spouse and child coverage may, within 1 year of 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.

2. A member may elect coverage for a former spouse who the member acquired after becoming eligible for retired pay. The member and former spouse must have been married at least 1 year or the former spouse must be the parent of a child or children born of that marriage in order for the former spouse to be an eligible beneficiary. For provisions regarding the effective date of former spouse coverage, see subparagraph 430504.D.

C. Deemed Elections. Deemed elections are applicable in cases where a member enters, incident to a proceeding of divorce, dissolution, or annulment, into a written agreement to elect to provide an SBP annuity to a former spouse, and such agreement has been incorporated in, or ratified or approved by a court order, or has been filed with the court of appropriate jurisdiction in accordance with applicable State law, or in cases where the member is required by a court order to make a former spouse election. If such member fails or refuses to make such election, the member is deemed to have made such election if the Secretary concerned receives a completed DD 2656-10 from a former spouse or the former spouse's attorney on behalf of the former spouse. A copy of the pertinent court order or agreement referring to the SBP coverage must accompany the DD 2656-10. See subparagraph 430504.C.1. Effective September 27, 2008, use of the DD 2656-10 to make a deemed election is mandatory.

1. The former spouse will provide a copy of the court order, regular on its face, which requires such election, or incorporates, ratifies, or approves the written agreement of the member; 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; or for a deemed SBP election only, a copy of the court order which requires the SBP election. A court order which requires the member to elect SBP for a former spouse or former spouse and child or an agreement to provide former spouse or former spouse child coverage must be issued on or after November 14, 1986. If the member was ordered by a court to elect former spouse coverage before November 14, 1986, a second court order, issued on or after November 14, 1986, enforcing the original order which requires a former spouse election, constitutes a modification of the previous order and establishes a new 1-year period during which a request for a deemed election may be filed.

2. The Secretary concerned must receive the request from the former spouse within 1 year of the date of the court order or filing involved. If an election of former spouse coverage was agreed to or ordered by an earlier court order, a subsequent order or modification that merely restates the previous provision and imposes no new obligation on the member does not begin a new 1-year period. A subsequent court order holding a member in contempt of court for failing to fulfill the prior agreement is not the type of court order that can be used to begin a new 1-year period to deem an election.

3. No election may be deemed to have been made which could never have been made by the member concerned.

4. If a member dies before making an election, a former spouse's request, which is otherwise qualified, must be honored even if the date of the request is after the date of the member's death. However, if the request for a court order was initiated with the court after the member's death, the order will not be honored.

5. If a member has more than one former spouse, the first request for a deemed election received with complete documentation must be the one honored.

* D. Death of Former Spouse. The National Defense Authorization Act (NDAA) Fiscal Year (FY) 2016, Public Law (PL) 114-92, section 641, effective November 25, 2015, amended SBP to allow for members to elect spouse coverage after the death of a former spouse.

1. Married on the Date of Death of Former Spouse. The following applies when a person who is married at the time of the death of the former spouse beneficiary and elects to provide coverage to their spouse:

a. The election must be received by the Secretary concerned within one year after the date of the death of the former spouse beneficiary;

b. The effective date of election will be the first day of the first calendar month following the death of the former spouse beneficiary

c. The level of coverage on the annuity base amount cannot be changed; and

d. The election under this paragraph is irrevocable.

2. Marriage after Death of Former Spouse Beneficiary. The following applies when a person who married after the death of the former spouse beneficiary and elects to provide coverage to their spouse:

a. The election must be received by the Secretary concerned within 1 year after the date on which that person marries;

b. The effective date of the election will be the first day of the first calendar month following the month in which the election is received by the Secretary concerned;

c. The level of coverage on the annuity base amount cannot be changed; and

d. The election under this paragraph is irrevocable.

430505. Federal Civil Service Retiree

A. A member with SBP coverage who: (1) retires under the civil service retirement program; (2) waives military retired pay to combine civilian and military service credits; and (3) elects survivor coverage, at any level, under the civil service retirement, has SBP coverage suspended while the waiver is in effect. If the waiver is terminated for any reason, SBP coverage resumes concurrent with the resumption of retired pay. The type of coverage and level of participation, as adjusted by any changes in retired pay during the period of waiver, is as first elected. If the retired service member dies while the waiver of military retired pay is in effect, no SBP annuity becomes due and payable to either the surviving spouse and/or child.

B. An election in SBP with concurrent cancellation of previous Retired Servicemen Family Protection Plan (RSFPP) coverage is without force or effect if retired pay previously was waived for civilian retirement and survivor coverage from the civilian annuity was elected.

C. A member who elects SBP coverage, and who does not waive military retired pay for civil service retirement, may have survivor coverage under both retirement plans.

D. Provisions in subparagraph 430505.A do not apply to a member who retired under [10 U.S.C. § 12731](#) or who retired due to a combat-incurred disability as determined by the service.

E. The survivor of a federal civil service employee who was awarded military retired pay based on any period of military service and whose death occurs before separation from civil service, will receive a survivor annuity computed using military service. The survivor annuity from civil service will be reduced by any military survivor benefits payable. The survivor may elect not to be covered by this provision, which automatically uses military service credit in computing the federal survivor annuity.

F. Except for participation in federal service survivor annuity programs, SBP coverage does not terminate when a member participates in other survivor benefit plans administered by the United States Government such as under the Foreign Service or Federal Judges Retirement systems.

4306 CHANGES IN ELECTION AND COVERAGE

430601. Later-Acquired Spouse and/or Child

A member who acquires a new spouse and/or child after retirement must make an election within 1 year of the event with the exception that there is no time restriction on the election period for a change under subparagraph 430601.B.5.

A. A member who is participating with spouse or spouse and child coverage and who does not have an eligible spouse beneficiary may, upon remarriage: resume coverage, increase the level of coverage up to and including full retired pay, or elect not to have spouse coverage resumed. Unless a member elects not to cover the new spouse within 1 year after the marriage, spouse coverage automatically resumes at the first anniversary of the marriage.

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

2. The level of SBP coverage may not be reduced nor may child coverage be eliminated.

3. SBP elections become effective when the new spouse becomes an eligible beneficiary, and any increase in premium, plus interest, has been paid. When the level of SBP coverage is increased, the member must pay the difference between the present premium and the premium that would have been incurred had the higher level of coverage been elected originally, plus interest. Interest is compounded monthly using a factor equal to the 12th root of one plus the current annual interest rate used by the Department of Defense (DoD) Board of Actuaries to calculate the retirement accrual costs. Interest is to be compounded monthly on the accumulated difference existing prior to any computation month. If payment of cost plus interest is not completed before the spouse becomes an eligible beneficiary, the election becomes null and void and a refund of cost and interest and reinstatement of original election coverage occurs. Cost plus interest will be paid to member's estate should the member die before refund is completed.

4. If a member has spouse or spouse and child coverage and elects not to resume SBP participation for the spouse, the spouse must be notified. An election to terminate spouse coverage is irrevocable. If the member elects to increase the level of spouse coverage to an amount less than full retired pay, the spouse must be notified.

B. If, on date of retirement the member:

1. Has no eligible beneficiaries and **does not elect** to participate; the **member may, within 1 year of the acquisition of a spouse or child, elect for that** spouse and/or child;

2. Has no eligible spouse and elected for child only; **the member** may, within 1 year after marriage or remarriage, include the spouse with coverage previously elected for the child;

3. Has no eligible child and elected for spouse only; **the member** may, within 1 year of acquisition of a child, include the child with coverage previously elected for the spouse;

4. Has no eligible spouse and declines coverage for an eligible child; **the member** may, within 1 year of the acquisition of a spouse, elect for that spouse; or

5. Has elected coverage for a former spouse or former spouse and child, or has elected coverage for a natural person with an insurable interest; the member may later change the election to spouse and/or child, if not otherwise prohibited. See paragraph 430602. The member is not required to change the election to spouse and/or child; however, if such a change is made, it permanently terminates the eligibility of the former spouse or the natural person

with insurable interest. It is not necessary that maximum level coverage be elected for the spouse and/or child. See subparagraph 430602.B and paragraph 430603, for additional information concerning changes in former spouse coverage.

430602. Change from Spouse or Spouse and Child

A member who elected spouse or spouse and child coverage may terminate that election for that spouse or spouse and child and provide an SBP annuity for a former spouse or former spouse and child, provided the child resulted from the member's marriage to that former spouse. If the member is married when the former spouse election is made, that spouse must be notified. See subparagraph 430501.G. A former spouse may request that an election be deemed by the Secretary concerned (or designee).

A. Notification

The Secretary concerned must notify the former spouse of any changes in the former spouse election.

B. Changes to a Former Spouse Election

1. If a member was required to elect former spouse coverage by a court order, incident to a proceeding of divorce, dissolution, or annulment, the member may change to spouse or child coverage if the member furnishes, to the Secretary concerned (or designee) a certified copy of a court order that permits such a change. The court order, regular on its face, must modify the provisions of all previous court orders relating to the former spouse election so that the member is permitted to change the election. The member must certify to the Secretary concerned that the court order is valid and in effect. These same restrictions apply to the member who elected former spouse coverage pursuant to a written agreement that was incorporated in, or ratified or approved by, a court order.

2. In the case of a written agreement that has not been incorporated or ratified or approved by a court order, the member must furnish, a statement signed by the member and the former spouse that evidences the former spouse's agreement to an election change to the Secretary concerned in a format prescribed by that Secretary. The member must certify that the statement is current and in effect.

430603. Change to Former Spouse Coverage under Insurable Interest

A member was allowed to change an election for former spouse coverage under the insurable interest category to former spouse coverage under the spouse category during the period November 8, 1985, through November 7, 1986. A member also could add child coverage to former spouse coverage provided the child was the result of the member's marriage to that former spouse and if the member is providing coverage for the former spouse under the spouse category. These election changes apply to elections effective before March 1, 1986.

430604. Changed Retirement Eligibility

If a member elects the RCSBP coverage and subsequently becomes eligible for retirement under another law, thereby losing eligibility under 10 U.S.C. § 12731, the RCSBP election remains effective until the member actually retires. A member may make a new election as any other retiring member.

430605. Mental Incompetency

The Secretary of the Military Department concerned may make an SBP or RCSBP election on behalf of a member who is declared incompetent by medical officers of the Armed Force concerned, or of the VA, or by a court of competent jurisdiction. In the event the member is later declared competent by one of these authorities, the member may elect to revoke that election within the 180-day period following a determination of competency. There are no refunds of premiums paid for coverage during a period of declared incompetence.

430606. Correction of Administrative Error

The Secretary of the Military Department concerned (or designee) may correct any election or any change or revocation of an election when the Secretary considers it necessary to correct an administrative error. See Chapter 42.

4307 DISCONTINUANCE OF PARTICIPATION

430701. Discontinuance of SBP Participation on Second Anniversary

A. An SBP participant may choose to voluntarily discontinue SBP participation during a 1-year period which begins on the second anniversary of the date of commencement of retired pay. The date of commencement of retired pay is defined as the date that the retiree becomes entitled to retired pay. A recall to active duty following retirement will not alter this date.

B. An SBP participant who is eligible to discontinue participation must send a written request to the Defense Finance and Accounting Services (DFAS) on a DD 2656-2. A request for information or a request for termination that is not on a DD 2656-2 is not considered a valid request to discontinue.

1. A married participant may not discontinue spouse coverage without the spouse's written concurrence, unless it is established that the spouse's whereabouts cannot be determined, or that, due to exceptional circumstances, obtaining the spouse's consent would be inappropriate. In exceptional circumstances, such as mental or physical incapacitation of the spouse, DFAS requires the appropriate documentation such as a physician's statement, which attests to the spouse's mental or physical incapacitation. Additionally, the incapacity must exist continuously since the date of the member's request.

2. If the SBP participant is providing former spouse coverage based on a court order, an amended court order should accompany the request, even if the former spouse concurs with the request.

C. If termination is not otherwise prohibited by [10 U.S.C. § 1448](#), a spouse or former spouse who concurs in the request for termination is considered notified in accordance with the law. A spouse or former spouse who changes his/her mind after concurrence has 30 days from the date of the first request to submit a letter withdrawing their concurrence. If concurrence is withdrawn within 30 days, the request to withdraw from SBP participation is void. The concurrence of the former spouse is applicable even though the coverage may be currently in a suspended status due to the former spouse's remarriage. Child concurrence is not required when a member elects to discontinue SBP participation for child coverage.

D. DFAS must ensure that a natural person or former spouse who is not required to concur in the request for termination is notified of the termination of SBP coverage by sending a letter to such beneficiary at the address in the retired member's file.

E. A member's participation terminates on the first day of the month following the month in which DFAS receives a request for discontinuance. Any premiums deducted for periods on or after the effective date must be refunded and the member notified of the final action concerning termination of coverage.

F. A member may withdraw the request to discontinue participation within 30 days of having submitted such request to DFAS. The 30-day period begins on the date that DFAS considers the withdrawal request received. Generally, this is the received date stamped on the DD 2656-2 by DFAS.

1. To withdraw the request to discontinue SBP participation, the member must notify DFAS by a legible, signed, written notice. The request must identify the member by name and social security number and state that the member no longer wants to discontinue SBP participation. When available, the request should include a photocopy of the original DD 2656-2.

2. If the member withdraws a request to discontinue participation within the prescribed 30-day period, the member's participation will not be discontinued. If the withdrawal notice is received after the prescribed date, it will have no effect and the member must be so notified within 30 days. If the member provides proof of the date of mailing and such date is favorable to honoring the member's withdrawal request, the date of mailing serves as the date submitted.

3. If the member effectively withdraws a request to discontinue participation, that member must be so notified within 30 days. If participation had already been discontinued, it must be reinstated as though no break in coverage existed. Premiums not collected or paid, or that were refunded will be collected from the member's retired pay and the member notified of the final action concerning participation.

G. Once participation is discontinued under this provision, no benefits may be paid in conjunction with the member's previous participation. No refund of any premiums properly collected will be made. The member may not resume participation in SBP for any category of beneficiary.

H. A member who discontinues SBP participation may not later elect SBP coverage upon acquisition of another class of beneficiary.

430702. Voluntary Termination of Coverage

A. A member who is participating in SBP with coverage for a natural person with an insurable interest (not a former spouse) may voluntarily terminate **their** participation in SBP.

B. A member considering termination of insurable interest coverage under RCSBP should contact the responsible agent **at** DFAS, or the Military Service Reserve Component Personnel Center (or an appropriately determined office for non-DoD Uniformed Services).

C. A member who is eligible and wants to terminate coverage may send a written request to the responsible agent identified in subparagraph 430702.B. The request, signed by the member, must identify the member and state that the member wants to terminate SBP participation. A request for information is not a request to terminate SBP participation.

D. When the responsible agent receives a request from an SBP participant eligible to terminate coverage, the agent will determine whether the request is for information or actually is a request to terminate participation. In either case, the member will be mailed two fact sheets that explain the procedures for terminating participation and the advantages and disadvantages of participation; and, the disadvantages of terminating participation. If the request is determined to be a request for termination, the member will be advised in the cover letter that a request for termination can be withdrawn within 30 days of the date of that letter.

E. No premiums are refunded as a result of terminating coverage. No premiums will be charged after the effective date of termination unless the member had RCSBP coverage. See Chapter 54, for recomputation of the original "add-on" portion of the RCSBP premium when member terminates coverage before age 60.

F. A member who wishes to withdraw the request to terminate participation must notify the Secretary concerned (or designee) using a legible, signed written notice to the member's responsible agent in subparagraph 430702.B. The notice must identify the member's name and social security number and state that the member no longer wants to discontinue SBP participation. Such requests are handled in accordance with the provisions of subparagraphs 430701.F.2 and 3.

G. The member may only resume SBP participation by electing coverage for a spouse or dependent child within 1 year of acquiring the family member.

430703. Invalidation of Certain SBP Elections Made by Disability

A. The SBP elections for a natural person with an insurable interest, other than for a person who is a qualified dependent, is void for members who retired for reasons of disability under 10 U.S.C., Chapter 61, if they die within 1 year after the disability retirement date, with the cause of death being related to the disability for which the member retired.

B. For voided election, SBP deducted from the member's retired pay **is refunded** to the person to whom the SBP annuity would have been paid pursuant to such election.

430704. Withdrawal by a Totally Disabled Member

A. Any person who elects to participate in SBP with a service-connected disability rated by the VA as totally disabling and is so rated for 10 or more continuous years (or, if so rated for a lesser period, at least 5 years from the date of last discharge or release from active duty) may request to discontinue participation in the Plan by submitting a request to the Secretary concerned (or designee). The initial date for determining the 5- or 10-year period is the effective date of the VA rating of total disability. Validation must be obtained from the VA if not available from the individual.

1. The request for discontinuance must be with the written consent of the beneficiary or beneficiaries under the Plan. Should that beneficiary be a dependent child, written consent may be accepted from a parent, stepparent, foster parent, guardian, or an individual appointed by a court of competent jurisdiction.

2. The Secretary concerned must furnish to each person requesting discontinuance, a written statement of the advantages of participating and the possible disadvantages of discontinuing participation in the plan. Such statement should include the criteria for the Special Survivor Indemnity Allowance, the ability to receive both SBP and Dependency and Indemnity **Compensation** (DIC) without offset for remarriage of an annuitant over age 57, and the possibility that legislative action could either partially or fully remove the SBP-DIC offset.

3. A person may withdraw the discontinuance request within 30 days of submission to the Secretary concerned.

4. Participation in the Plan and cost of SBP coverage is discontinued on the first day of the month after receipt of the request by the Secretary concerned.

5. If a member dies after the date that the request for withdrawal has been received by the Secretary concerned, but before the effective date of that request, the beneficiary is entitled to the annuity.

B. Upon the death of a person who has discontinued participation in the Plan, who is a totally disabled member, a refund of SBP amounts deducted from retired or retainer pay without interest will be made to the widow or widower.

C. Any person who has discontinued participation in the Plan may again elect to participate if the VA reduces the disability rating to less than total and the person applies within 1 year to participate in the Plan and includes the required information determined by the Secretary concerned.

1. Participation in the Plan and reduction in pay is effective the first day of the month after receipt of the application to the Secretary concerned on [the DD 2656](#). Documentation attesting to the less than total disability rating must accompany the application.

2. If the member applies for resumption of participation, but dies before the effective date, the beneficiary is entitled to an annuity on the date the election would have been effective.

3. Resumption of participation is limited to the type and level of coverage initially elected allowing for beneficiary changes as otherwise provided for in Chapters 42 through 54.

4308 OPEN ENROLLMENT PERIODS

430801. Regular Recurring Open Enrollment

There are no regular recurring open enrollment periods. Open enrollment periods occur only when there are major changes to the SBP program and must be specifically prescribed by law. The last SBP open enrollment, which was authorized by [PL 108-1375](#), began October 1, 2005 and ended September 30, 2006 under 10 U.S.C 1448. In the absence of such a legislatively prescribed period, members may only enroll or disenroll as specified in this chapter.

*430802. Former Spouse SBP Coverage Open Enrollment

The NDAA FY 2016 amended the SBP statute to give a member, who had made an election to provide SBP or RCSBP coverage for a former spouse, the ability to cover a subsequent spouse if the former spouse dies. The enactment of this legislation included provisions for an open enrollment period (November 25, 2015 through November 24, 2016) to accommodate members whose covered former spouse beneficiaries were already deceased when the legislation was enacted. This former spouse SBP coverage open enrollment did not apply if the member was not currently married or if the former spouse SBP coverage was discontinued for any reason other than the death as of November 25, 2015. See subparagraphs 430504.D and E.

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