

**SUMMARY OF MAJOR CHANGES TO
DOD 7000.14-R, VOLUME 7B, CHAPTER 43
“SURVIVOR BENEFIT PLAN — ELECTIONS AND ELECTION CHANGES”**

All changes are denoted by blue font

Substantive revisions are denoted by a ★ preceding the section, paragraph, table or figure that includes the revision

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

PARAGRAPH	EXPLANATION OF CHANGE/REVISION	PURPOSE
430203.A thru 430203.C, 430501.E, 430501.G, 430503.A, 430503.B, 430503.C, 430701.A,	Public Law 108-375, Section 644 and Interim change R04-06 implements the gradual phase out of Supplemental Survivor Benefit Plan.	Update
430502	Public Law 108-163, Section 645(b) incorporates changes due to disability retirements.	Update
430106, 430301, 430904, Figure 43-1, Bibliography	Public Law 108-375, Section 645 incorporated the Survivor Benefit Plan (SBP) open enrollment.	Update

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CHAPTER 43

SURVIVOR BENEFIT PLAN—ELECTIONS AND ELECTION CHANGES4301 ELECTION

430101. A member who retired before September 21, 1972, had until March 20, 1974, to elect to participate in the [Survivor Benefit Plan \(SBP\)](#). If the member was recalled to active duty before March 20, 1974, and did not return to the retirement list until after March 20, 1974, [then](#) an election made at the end of the period of extended active duty may be considered valid. A member who retires on or after September 21, 1972, has automatic participation at the maximum level unless he or she elects otherwise before retirement or is ordered to participate in the Plan by a court order. If, on September 21, 1973, (pre-September 21, 1972 retiree), or on date of retirement (post-September 21, 1972 retiree), the member has no spouse or dependent children and later marries or acquires dependent children, [then](#) the member may participate in the Plan. This election must be received by the Secretary concerned within 1 year of the marriage date or acquisition of the children. A member retiring between September 21, 1972 and March 20, 1973, had a “grace period” for making the final decision concerning this coverage. This member had 180 calendar days after the retirement date to change the automatic full coverage given at retirement if no election otherwise had been made. An election made before September 21, 1972, was null and void as of September 21, 1972, if the member retired on or after September 21, 1972.

430102. [Public Law 97-35](#) gave certain eligible members an opportunity to elect or to change the SBP coverage from October 1, 1981 through September 30, 1982. See section 4309, [of this chapter](#).

430103. [Public Law 98-94](#) gave certain participating members a limited opportunity from September 24, 1983 to September 23, 1984, to change SBP coverage from spouse or spouse and child(ren) to coverage for former spouse.

430104. [Public Law 101-189](#), as amended, gave certain eligible members an opportunity to elect or change SBP coverage from April 1, 1992 through March 31, 1993. It also allowed members who were providing spouse or former spouse coverage at the maximum level a chance to elect Supplemental SBP.

430105. [Public Law 105-261](#) provided members an opportunity to elect or change SBP coverage from March 1, 1999 through February 29, 2000.

★ 430106. [Public Law 108-375, Section 645](#), provided an open enrollment period from October 1, 2005 through September 30, 2006.

4302 ELECTION OPTION

430201. Base Amount. A member who participates in the SBP must elect a base amount of maximum coverage or reduced coverage. A member must choose maximum coverage if electing Supplemental SBP (SSBP). The base amount at any level is adjusted with each cost-of-living increase after retirement. See section [4901](#), of this volume.

430202. Coverage. Coverage may be provided for:

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

★ 430203. Supplemental SBP Coverage (SSBP)

A. Prior to October 28, 2004, a member who elected SBP coverage for spouse or former spouse at the maximum level could elect a supplemental spouse annuity for that beneficiary. A member could elect a monthly SSBP annuity payable to the beneficiary in increments of 5, 10, 15, or 20 percent of the base amount. A member could not elect SSBP if the annuity of the spouse or former spouse would be computed under the social security offset method, [10 U.S.C. 1451\(e\)](#), unless the member waived the right to have the annuity computed under the social security offset method.

B. Effective November 1, 2004, the reduction in retired pay for SSBP premiums is terminated. Consequently, SSBP coverage without cost shall be presumed for any valid election of maximum SBP coverage for a spouse or former spouse with an effective date on or after October 28, 2004 through March 31, 2008.

C. SSBP coverage is eliminated effective April 1, 2008, and will be gradually reduced between October 1, 2005 and March 31, 2008. See paragraph [460304.C](#), of this volume.

4303 ELECTION DATA

★ 430301. Elections by the Member. [DD Form 2656](#) (Data for Payment of Retired Personnel), [DD Form 2656-1](#) (SBP Election Statement for Former Spouse Coverage), [DD Form 2656-2](#) (SBP Termination Request), [DD Form 2656-6](#) (SBP Election Change Certificate), when available, are recommended for use by the member. Elections in writing, signed by the member, which contain information necessary for establishing or declining coverage, are acceptable. Spousal concurrence of certain elections has been required since March 1, 1986. A member, who anticipates becoming a Plan participant with maximum coverage for spouse or former spouse, must elect 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, **then** any SSBP election shall be void. If the

former spouse election form does not include an election statement signed by the member and the former spouse, [then](#) a separate election statement is required. In the election statement, the member must certify whether the former spouse election is pursuant to a court order or a voluntary written agreement. Information concerning content of the written statement and the proper court order appears in paragraph 430503, [of this chapter](#).

430302. Deemed Elections Requested By the Former Spouse. On deemed elections, requested by the former spouse or the former spouse's attorney, the request for the Secretary of the Military Department concerned to deem that an election has been made is accompanied by a court order or a statement from the clerk of the court. Information concerning content of the request by the former spouse or the former spouse's attorney and the statement from the clerk of the court, where necessary, appears in subparagraph 430503.C, [of this chapter](#).

430303. Election Data Requirements. The election data requirements are:

A. Identification. 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, then the election form must indicate full coverage.

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

1. If coverage includes spouse, or former spouse, [then 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.

3. If the beneficiary designation is for a former spouse, [then](#) the member must complete a statement signed by both the member and the former spouse, setting forth 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.

D. Signature. The member must sign and date the election. Two impartial 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.

E. Spousal Concurrence. Effective March 1, 1986, a married member is enrolled with spouse coverage on full retired pay at the time of retirement unless, that spouse has agreed in writing to another election requested by the member. When the spouse's concurrence is required, the signature indicating concurrence must be confirmed by one or more witnesses. The spouse's concurrence with, or request for, an election other than that requested by the member shall be disregarded. If all requirements for an election needing the spouse's concurrence have not been satisfied prior to retirement, for whatever reason, [then](#) 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. Any change in SBP election subsequent to retirement will be done through an administrative correction of records. 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, [then](#) the spouse's concurrence is not required; however, the spouse will be notified of that election, as previously required when spouse coverage was declined. Spousal concurrence is not required in any case if the member establishes to the satisfaction of the Secretary concerned that either the spouse's whereabouts cannot be determined or, due to exceptional circumstances, the requirement of the member to seek the spouse's concurrence would be otherwise inappropriate. Exceptional circumstances will be evaluated on a case-by-case basis.

4304 IRREVOCABLE ELECTIONS, CORRECTIONS AND DISCONTINUED PARTICIPATION

430401. An election by a pre-September 21, 1972 retiree on the basis of adequate information concerning the Plan or an election by a post-September 21, 1972 retiree (unless revoked or changed before the first day of retirement) is irrevocable, except under the following circumstances:

A. A member retired March 1, 1986, or later, elected less than maximum SBP coverage without the spouse's concurrence, and the Secretary concerned later determines that the spouse's concurrence in such election was appropriate;

B. A member voluntarily discontinues SBP participation upon the second anniversary of the date of commencement of retired pay under paragraph 430801, [of this chapter](#);

C. 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;

D. A member voluntarily discontinues participation as a totally disabled member under paragraph 430803, [of this chapter](#);

E. A member voluntarily terminates SBP coverage for a natural person with an insurable interest (not a former spouse) under paragraph 430802, [of this chapter](#);

F. A mentally incapacitated member is later determined to be mentally competent and revokes or changes the SBP election within 180 days after such determination of judgment;

G. A member who became an SBP participant between October 19, 1984 and November 8, 1985 elects to withdraw from SBP before November 8, 1986 under [Public Law 99-145, section 711](#).

430402. The SBP election may be changed as explained in sections 4307 and 4309 of this chapter.

4305 ELECTION COVERAGE

430501. Spouse and/or Children

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 children; or
3. Dependent children only.

B. A member who retires on or after September 21, 1972, is automatically covered at the maximum level for spouse and/or dependent children, unless, the member elects not to participate or elects to participate at a reduced level before the first day of eligibility to retired pay with the concurrence of the member's spouse, if required. See subparagraph 430501.D, of this chapter.

C. A member with an eligible spouse and dependent children on September 21, 1973, (pre-September 21, 1972, retiree) or on the date of retirement (post-September 21, 1972, retiree) who:

1. Declines coverage is prohibited from electing into the Plan, except under section 4309, of this chapter; or
2. Refuses coverage for an eligible spouse, and chooses to elect coverage for children only, is prohibited from electing spouse coverage at a later date, except under section 4309, of this chapter; or
3. Refuses coverage for his or her dependent children, 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 elect without the concurrence of his or her spouse, to decline participation in SBP, to provide an annuity for the member's spouse at less than maximum level, or to provide 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 dependent children, who was unmarried on September 21, 1973, (pre-September 21, 1972, retiree) or on date of retirement (post-September 21, 1972, retiree), may elect spouse coverage upon subsequent marriage regardless of whether coverage was elected for his or her dependent children. The election must be received by the Secretary concerned within 1 year of the marriage date. [Prior to October 28, 2004, a member who elected SBP for his or her spouse at the maximum level could simultaneously elect supplemental SBP \(SSBP\) coverage. Maximum SSBP coverage without cost to the participating member shall be presumed for any valid election of maximum SBP coverage for a spouse or former spouse that a member makes with an effective date of election of October 28, 2004 through March 31, 2008. All SSBP coverage is eliminated effective April 1, 2008. See paragraph \[460304\]\(#\), of this volume.](#)

★ F. A member with an eligible spouse who did not have dependent children on September 21, 1973, (pre-September 21, 1972, retiree) or on date of retirement (post-September 21, 1972, retiree) later may elect coverage for dependent children. [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, [then](#) the member's spouse shall be notified of that election. The member may make this election without spousal concurrence.

430502. Natural Person With Insurable Interest. An election for a natural person with an insurable interest may be made only when there is no eligible spouse or dependent children. As an exception, a person who is unmarried but who has a dependent child may provide coverage for that child under the insurable interest provision rather than an election for a child. For a pre-September 21, 1972, retiree, the Secretary concerned must have received the election by March 20, 1974, and for the post-September 21, 1972, retiree, 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 Chapter 61 of Title 10, United States Code, on or after November 24, 2003, then refer to paragraph 430803, of this chapter.](#)

★ 430503. Former Spouse or Former Spouse and Children. 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, **then** 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, **then** 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 1 former spouse, **then** the member shall designate which former spouse is to receive the annuity:

A. Upon Retirement. A member, who has a former spouse and dependent child when becoming eligible to participate on March 1, 1986 or later, may elect former spouse or former spouse and child coverage, provided the child resulted from the member's marriage to that former spouse. A member with former spouse coverage at the maximum level also may elect SSBP coverage. [Refer to paragraph 430501.E, of this chapter, regarding the phase out of SSBP coverage.](#) The annuity for the former spouse is provided under the spouse category. If the former spouse election was effective before March 1, 1986, then the former spouse annuity was provided under the insurable interest category and child coverage, in conjunction with former spouse coverage, was unavailable. A member participating before March 1, 1986, with former spouse coverage could provide an annuity for a former spouse and child, if such election was made before March 1, 1987, for a member who elected former spouse coverage before November 8, 1985, and not later than November 13, 1987, for the member who elected former spouse coverage November 8, 1985 through February 28, 1986. NOTE: An annuity for the former spouse must first be provided under the spouse category in order to add child coverage.

B. Following Retirement. A member with spouse or spouse and child coverage may, before September 24, 1984, or 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. If the member elects to provide former spouse coverage, [effective October 28, 2004 through March 31, 2008, and existing spouse coverage was elected at the maximum level, then maximum SSBP coverage will be presumed. See paragraph 430501.E, of this chapter, regarding the phase out of SSBP coverage.](#) If the SBP election was changed to former spouse coverage and was in effect before March 1, 1986, **then** the annuity was provided under the insurable interest category and child coverage in conjunction with former spouse coverage was unavailable. A member participating in the Plan before March 1, 1986, with former spouse coverage could provide an annuity to a former spouse and child if such election was made before March 1, 1987, for a member who elected former spouse coverage before November 8, 1985, and not later than November 13, 1987, for the member who elected former spouse coverage November 8, 1985 through February 28, 1986. NOTE: An annuity for the former spouse must first be provided under the spouse category before child coverage may be added. If a member elects coverage for a former spouse who the member acquired after becoming eligible for retired pay, **then** 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. [Public Law 99-145](#) allowed SBP participants who had not elected former spouse coverage to elect former spouse coverage during the period November 8, 1985 through November 7, 1986. For provisions regarding the effective date of former spouse coverage, see paragraph 430503.D, [of this chapter.](#)

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 then fails or refuses to make such election, **then** the member shall be deemed to have made such election if the Secretary of the Military Department concerned receives a written request from a former spouse or the former spouse's attorney on behalf of the former spouse. The request is acceptable if it refers to, or cites provisions in, a court order concerning SBP former spouse coverage, or makes clear by other references to SBP that there is an intent that the annuity coverage be provided to the former spouse. The written request must be accompanied by a copy of the pertinent court order or agreement referring to the SBP coverage. (See subparagraph 430503.C1, of this chapter). Deemed elections for SSBP coverage shall operate under the same rules as for SBP, except that no SSBP election may be required by a court order. Deemed SSBP elections may be made only in instances where there is a voluntary written agreement to elect SSBP made by the member, and such agreement is properly incorporated in, or ratified or approved, a court order, or is filed with the court of appropriate jurisdiction. **A deemed SSBP election is subject to the provisions of Public Law 108-375, Section 644(b), which will phase out SSBP annuities between October 1, 2005 and March 31, 2008. See paragraph 460304.C, of this volume.**

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 (or to enter into an agreement to elect) SBP for a former spouse or former spouse and child 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, **then** 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 request from the former spouse must have been received by the Secretary concerned before October 1, 1985, or within 1 year of the date of the court order or filing involved, whichever is later. If an election of former spouse coverage was agreed to or ordered by an earlier court order, **then** 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, **then** a former spouse's request, which is otherwise qualified, shall be honored even if the date of the request is after the date of the member's death.

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

D. Effective Date of Elections. For former spouse elections made under the provisions of paragraphs 430503.B and 430503.C of this **chapter**, the following rules apply:

1. If the member is not required to make a former spouse election by a court order or filing, **then** the member's election of former spouse coverage is effective as of the first day of the first month following the month in which the election is received.

2. If a court order or filing dated on or after October 17, 1998, requires or provides for a member to make a former spouse election, **then** the effective date of former spouse coverage is the first day of the first month which begins after the date of that court order or filing, regardless of whether the coverage is the result of the member's election or of a deemed election request by the former spouse.

3. If a court order or filing dated prior to October 17, 1998, required or provided for a member to make a former spouse election, **then** the effective date of a deemed election is the first day of the first month after the date of that court order or filing. If the member made a former spouse election within the required 1-year period, **then** the effective date of the former spouse coverage will be the first day of the first month following the month in which the election is received.

430504. Supplemental Survivor Benefit Plan. A member may not be ordered or required to elect (or to enter into an agreement to elect) to provide a spouse or former spouse with a supplemental spouse annuity. Except as provided in subparagraph 430503.C, in this chapter, in no case shall a person be deemed to have made an election to provide a supplemental annuity for a spouse or former spouse of such person.

430505. Federal Civil Service Retiree

A. A member with SBP coverage (or SBP and SSBP 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, **then** SBP (or SBP and SSBP) 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, **then** no SBP (or SBP and SSBP) annuity becomes due and payable to either the surviving spouse and/or children.

B. An election in the 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, including SSBP coverage, and who does not waive military retired pay for civil service retirement, may have survivor coverage under both retirement plans.

D. A member may waive retired pay in total to receive Veteran's Administration (VA) compensation and retire from civil service. The waiver of full retired pay in favor of VA benefits may also be considered as a waiver of retired pay for the purpose of a civil service retirement. A specific waiver of military retired pay for the civilian retirement is not required. The SBP coverage, including SSBP coverage, is suspended if survivor coverage is elected from the civil service annuity.

E. Provisions in subparagraphs 430505.A, and [430505.D, of this chapter](#) do not apply to a member who retired under [10 U.S.C. 12731](#) or who retired due to a combat-incurred disability.

F. Death of a federal civil service employee before waiver of military retired pay. The survivor of a federal civil service employee who was awarded retired pay based on any period of military service and [whose death occurs](#) before separation from civil service, shall receive a survivor annuity computed using military service. The survivor annuity from civil service shall 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.

G. Foreign Service and Judiciary Retirements. 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 U.S. Government such as under the Foreign Service or Federal Judges Retirement systems.

4306 COMBINED RETIRED SERVICEMEN FAMILY PROTECTION PLAN (RSFPP) AND SURVIVOR BENEFIT PLAN (SBP) COVERAGE

430601. Members participating in RSFPP on or before September 21, 1972, could, before March 20, 1974:

- A. Decline SBP coverage and continue RSFPP, or
- B. Cancel RSFPP in favor of SBP, or
- C. Elect coverage under both Plans.

430602. The commitment concerning the RSFPP participation must have been made at the time of the SBP election. In the absence of such commitment, coverage under both Plans was established and the member was contacted regarding his or her intent on the RSFPP. A member could not cancel RSFPP participation and, at the same time, decline SBP coverage. Cancellation of the RSFPP in favor of SBP was both final and complete. A member having RSFPP coverage under two options could not cancel one option and retain the other.

430603. When electing coverage under both Plans, the member could, within certain limitations, designate the amount of coverage under each Plan. The total of the annuities could not exceed the gross retired pay entitlement on the effective date of the SBP election. The reduced base amount limits had to be maintained and the original RSFPP base amount could not be increased. A member retiring before November 1, 1968, could reduce RSFPP coverage to one-fourth or one-eighth of the gross pay entitlement or reduce RSFPP coverage on the date of retirement. A member retiring on or after November 1, 1968, and electing SBP, could reduce the RSFPP annuity by any amount provided the amount was not less than 12-1/2 percent of the retired pay entitlement on the date SBP was elected and the monthly annuity elected was not less than \$25.

430604. Cancellation of the RSFPP at the time of election into the SBP did not entitle the member to a refund of the previous RSFPP premiums. Any delinquent premiums under the RSFPP on the date of conversion to SBP continued as debts, subject to interest, until paid.

4307 CHANGES IN ELECTION AND COVERAGE

430701. Later-Acquired Spouse and/or Child. This election must be received within 1 year of the event with the exception of subparagraph 430701.B5, of this chapter, which is a change from former spouse to spouse coverage. There is no time restriction on the election period for a change under subparagraph 430701.B5, of this chapter.

★ 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. A member who is participating with maximum spouse coverage, but who is not a participant in the SSBP, [is presumed to have maximum SSBP if the resumed or increased spouse coverage at the maximum level is effective October 28, 2004 or after. See paragraph 430501.E, of this chapter.](#) 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.

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 DoD Board of Actuaries to calculate the retirement accrual costs. The current compounding factor is 1.00526. 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 spouse becomes an eligible beneficiary, **then** 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, **then** the spouse is notified and any SSBP coverage is terminated. 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, **then** the spouse is notified.

B. If, on September 21, 1973, for the pre-September 21, 1972, retiree, or on date of retirement, for the post-September 21, 1972, retiree, the member:

1. Has no eligible beneficiaries and declines to participate; **then** the declination does not prohibit the later election for spouse and/or children.

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

3. Has no eligible children and elected for spouse only, **then** he or she may, within 1 year of acquisition of children, include the children with coverage previously elected for the spouse; or

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

5. Elects coverage for a former spouse or former spouse and children, or elects coverage for a natural person with an insurable interest, **then** the member may later change the election to spouse and/or children. The member is not required to change the election to spouse and/or children; however, if such a change is made, **then** 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 children. See subparagraphs 430702.B, and 430703, **of this chapter**, for additional information concerning changes in former spouse coverage.

430702. Change From Spouse or Spouse and Children. A member who elected spouse or spouse and child coverage may terminate that election 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. [Effective October 28, 2004](#), any member who elects to provide a former spouse coverage at the maximum level is presumed to have maximum SSBP coverage. See paragraph 430501.E, [of this chapter](#). If the member is married when the former spouse election is made, [then](#) that spouse is notified (See subparagraph 430501.G, of this chapter). A former spouse may request that an election be deemed by the Secretary of the Military Department concerned (or designee).

A. The Secretary concerned shall notify the former spouse of any changes in 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, [then](#) the member may change to spouse or child coverage if the member furnishes, to the Secretary of the Military Department concerned (or designee) a certified copy of a court order. The court order, regular on its face, modifies 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 certifies 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 shall furnish, to the Secretary concerned, a statement (in a format prescribed by that Secretary), signed by the member and the former spouse that evidences the former spouse's agreement to an election change. The member must certify that the statement is current and in effect.

430703. 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 member is providing coverage for the former spouse under the spouse category. These election changes apply to elections effective before March 1, 1986.

430704. Changed Retirement Eligibility. If a member elects the [Reserve Component Survivor Benefit Plan](#) (RCSBP) coverage and subsequently becomes eligible for retirement under another law, thereby losing eligibility under [10 U.S.C. 12731](#), [then](#) the RCSBP election remains effective until the member actually retires. A member then may make a new election as any other retiring member.

430705. Open Enrollment Periods

A. [Public Law 97-35](#) allowed certain members to enroll in the SBP, to increase a reduced level of coverage, or to add spouse coverage to child coverage. The open enrollment period was October 1, 1981, through September 30, 1982. See section 4309, of [this chapter](#). [Public Law 97-252](#) allowed certain Reservists to participate in an open enrollment period October 1, 1982 through September 30, 1983.

B. See subparagraphs 430503.A, B, and C, of this chapter, for open periods under [Public Laws 98-94](#), [98-525](#), [99-145](#), and [99-661](#) involving elections for a former spouse. Members who elected SBP (or RCSBP) during the period October 19, 1984, through November 8, 1985 could elect to withdraw November 8, 1985 through November 7, 1986, with a refund of cost plus interest.

C. [Public Law 100-180](#) provided an open season withdrawal. A member with spouse or spouse and child coverage who remarried before March 1, 1986, and at a time when that person was a participant in SBP could, with the spouse's consent, withdraw from the Plan. The withdrawal period was March 3, 1988, through March 2, 1989. Premiums and coverage stop on the first day of the month following receipt of the withdrawal request. There is no refund of SBP premiums.

D. [Public Laws 101-189](#) and [101-510](#) provided an open season April 1, 1992, through March 31, 1993. A member who was not participating in SBP could have elected into the SBP program. A member who elected SBP coverage for spouse or former spouse at the maximum level during open season also could elect SSBP. A member could add spouse coverage or increase the base amount of coverage during open season. A member who already was participating in SBP with maximum coverage for a spouse or former spouse could have elected SSBP during open season.

430706. [Mental Incompetency](#). If a mentally incompetent member later is determined to be mentally competent, [then](#) he or she may, within 180 days after such determination, change or revoke the SBP, or SBP and SSBP election made on his or her behalf. The change or revocation shall be effective on the date of the member's request.

430707. [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 paragraph [420307](#), of this volume.

4308 [DISCONTINUANCE OF PARTICIPATION](#)

430801. [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 member whose second anniversary occurred

before May 17, 1998, has until May 16, 1999, to request discontinuance. A recall to active duty following retirement will not alter this date. No request to discontinue participation shall be effective before May 17, 1998.

B. An SBP participant who is eligible to discontinue participation sends a written request to [Defense Finance and Accounting Services \(DFAS\)](#)-Cleveland Center on [DD Form 2656-2](#) (Survivor Benefit Plan (SBP) Termination Request). A request for information or a request for termination that is not on [DD Form 2656-2](#) is not a 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, [then](#) an amended court order should accompany the request, even if the former spouse concurs with the request.

C. A spouse or former spouse who concurs in the request for termination is considered notified in accordance with [10 U.S.C. 1448\(a\)](#). 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, [then](#) 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 shall 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 shall 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 Form 2656-2](#) by DFAS.

1. To withdraw the request to discontinue SBP participation, the member must notify DFAS-Cleveland Site by a legible, signed, written notice. The request

identifies the member by name and social security number and states that the member no longer wants to discontinue SBP participation. When available, the request should include a photocopy of the original [DD Form 2656-2](#).

2. If the member withdraws a request to discontinue participation within the prescribed 30-day period, then the member's participation shall not be discontinued. If the withdrawal notice is received after the prescribed date, then it shall have no effect and the member shall 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, then the date of mailing shall serve as the date submitted.

3. If the member effectively withdraws a request to discontinue participation, then that member shall be so notified within 30 days. If participation had already been discontinued, then it shall be reinstated as though no break in coverage existed. Premiums not collected or paid, or that were refunded shall 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 shall 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.

430802. Voluntary Termination of Coverage for a Natural Person With an Insurable Interest

A. A member who is participating in SBP with coverage for a natural person with an insurable interest (not a former spouse) voluntarily may terminate his or her participation in SBP. No request for termination is effective before November 1, 1994.

B. If a member is considering termination of an insurable interest coverage, then he or she should contact the responsible agent: DFAS-Cleveland Center, or the Military Service Reserve Component Personnel Center for members not yet age 60 (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 430802.B, of this chapter. 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 (1) explain the procedures for terminating participation and the advantages and disadvantages of participation; and, (2) the disadvantages of terminating participation. If the request is determined to be a request for termination, **then** 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 Reserve Component Survivor Benefit Plan (RCSBP) coverage. See paragraph [570306](#), of this volume 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 of the Military Department concerned (or designee) using a legible, signed written notice to the member’s responsible agent in subparagraph 430802.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. If the member withdraws the request to discontinue participation within the prescribed 30-day period, **then** the SBP participation is not terminated. If the withdrawal notice is received after the prescribed date, **then** it has no effect and the member is so notified within 30 days. If the member provides proof of the date of the mailing and such date is favorable to honoring the member’s withdrawal request, **then** that date of mailing serves as the date submitted. If the member effectively withdraws a request to discontinue participation, **then** the member is notified within 30 days. If participation already was discontinued, **then** it will be reinstated as if no break in coverage occurred. Any premiums not collected or paid, or premiums that were refunded will be collected from the member and the member notified of the final action concerning participation.

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

430803. Invalidation of Certain SBP Elections Made by Disability Retirees Who Retired On or After November 24, 2003

A. For members who retired on or after November 24, 2003, **for reasons of** disability under [Chapter 61 of Title 10, United States Code](#), and the member died within 1 year after the disability retirement date, with the cause of death being related to the disability for which the member retired, **then** the following elections are void:

1. SBP elections for a natural person with an insurable interest, under [10 U.S.C. 1448 \(b\)\(1\)](#), unless the election is for a person who is a qualified dependent of the member as defined in [10 U.S.C. 1072\(2\)](#).

2. Supplemental SBP (SSBP) elections for a spouse under [10 U.S.C. 1458](#).

B. For voided election, refund SBP and SSBP premiums deducted from the member's retired pay to the person to whom the SBP or SSBP annuity would have been paid pursuant to such election.

430804. Withdrawal by a Totally Disabled Member

A. Any person who elects to participate in SBP with a service-connected disability rated by the Department of Veterans Affairs (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 of the Military Department 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 or children, 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 shall furnish a written statement of the advantages of participating and the possible disadvantages of discontinuing participation or the provisions of [10 U.S.C. 1452\(g\)](#), to each person requesting discontinuance.

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 and SSBP coverage is discontinued on the first day of the month after receipt of the request by the Secretary concerned. This provision is effective December 1, 1980.

5. If a member dies after the date that the request for withdrawal has been received by the Secretary of the Military Department concerned, but before the effective date of that request, [then](#) the beneficiary is entitled to the annuity.

B. Upon the death of a person who has discontinued participation in the Plan under this section, a refund of SBP and SSBP amounts deducted from retired or retainer pay without interest shall 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 [DD Form 1883](#)

(SBP Election Certificate). 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, **then** the beneficiary is entitled to an annuity on the date the election would have been effective.

3. Resumption of participation shall be limited to the type and level of coverage initially elected allowing for beneficiary changes as otherwise provided for in Chapters [42](#) through [58](#), of this volume.

4309 OPEN ENROLLMENT PERIODS

430901. Open Enrollment October 1, 1981 through September 30, 1982. Eligible members from each Military Service were notified of an open enrollment period for SBP from October 1, 1981, through September 30, 1982. Also, certain Reservists were authorized an open enrollment period for certain Reservists October 1, 1982, through September 30, 1983.

A. An eligible member was a member or former member of the Uniformed Services who was entitled to retired or retainer pay on or before August 13, 1981. If a member discontinued participation in the SBP program under provisions of [Public Law 96-402](#) for total disability before August 13, 1981, **then** that member could re-enroll during the open enrollment period or resume participation under paragraph 430803, of this chapter. The Secretaries of the Military Departments were permitted to make elections on behalf of mentally incompetent members. A member who did not have an eligible beneficiary during the open enrollment period could not elect into SBP later except under subparagraphs 430501.E, and [430501.F](#), of this chapter. A member who previously did not have an eligible beneficiary to make an election for, could be able to elect coverage for that beneficiary under subparagraphs 430501.E, and 430501.F.

B. An eligible member could elect to:

1. Enroll in the SBP if not presently participating (An initial election for former spouse coverage could be made from September 8, 1982, through September 30, 1982.):

2. Change the current level of coverage to a higher level; and/or

3. Change the current children only coverage to include coverage for spouse. Election information can be accepted in writing rather than on the approved form.

C. A member could only elect or change SBP once during the open enrollment period.

D. The election was effective when received by the Secretary of the Military Department concerned. The postmark of the envelope could be used when beneficial to the

member or survivor. An annuity was not payable under the open enrollment election for a period of 2 years. The 2-year waiting or penalty period began on the effective date of the open enrollment election and ended 2 years from that date.

1. If a member died before the end of the 2-year waiting period **then**:

a. The open enrollment election was void and premiums attributed to that election were refunded to or on behalf of the beneficiary(ies) designated in the open enrollment election. If the member had no prior coverage and elected for spouse and children, **then** the total refund was made to the eligible spouse beneficiary. If the eligible spouse beneficiary was no longer living, **then** premiums were refunded without interest, to the remaining eligible beneficiary(ies). If the member had an election in effect before the open enrollment election, **then** the premium was recalculated under the earlier election and deducted from the refund of the premiums due the eligible beneficiary(ies) for the open enrollment election.

b. An annuity was established to the eligible beneficiary(ies) under the terms of the earlier election.

c. If a member made an initial election to provide spouse coverage during the open enrollment period, changed that election made under paragraph 430702, **of this chapter**, during the 2-year waiting period, and died before the end of the 2-year waiting period, **then** no annuity was payable to the former spouse. Premiums attributed to the open enrollment election were refunded to or on behalf of the beneficiary(ies) of that election; premiums attributed to the changed election were refunded to the former spouse. If the member had an election in effect before the open enrollment election, **then** the premium was recalculated under the earlier election and deducted from the refund of premiums due the former spouse.

2. If the beneficiary died during the 2-year period, **then** the premium is suspended on the first day of the month after death. If the member later acquired the same type of beneficiary, but during the 2-year waiting period, the premium was resumed for the remainder of the 2-year period. If the member acquired the beneficiary after the 2-year waiting period, **then** the premium was resumed when the beneficiary became eligible for the annuity. See paragraphs [440101](#) and [440102](#), of this volume.

E. A member who wished to cancel RSFPP coverage to coincide with the election of SBP during the open enrollment period had to initiate separate action to withdraw from RSFPP under Chapter 34, Section [3402](#), of this volume.

F. The Military Services were not required to notify the beneficiary of a change in the member's election.

G. SBP cost for an open enrollment election was effective on the first day of the month after receipt of the election (by the Secretary of the Military Department concerned at the appropriate DFAS Center), except that costs for an initial election of former spouse coverage were effective February 1, 1983. See [Table 45-2](#).

H. If a member increased the base amount (or level of coverage), **then** the premiums were recalculated on the existing cost factor(s). If the member made an initial election which included children or added spouse coverage, **then** premiums were calculated using cost factors that were based on ages on the date of election.

I. SBP costs were not refunded to a member who was discharged from the Temporary Disability Retired List (TDRL).

J. The cost for spouse coverage paid during the 2-year waiting period is included in any cost refund that results from a Dependency and Indemnity Compensation (DIC) award.

430902. Open Enrollment April 1, 1992 Through March 31, 1993. [*Public Law 101-189*](#), amended by [*Public Law 101-510*](#), provided an open enrollment period from April 1, 1992 through March 31, 1993. A member could make only one open season election. A member with suspended spouse or former spouse coverage could make any election otherwise allowable even if the premium resulting from the open season election was immediately in a suspended status.

A. Non-participants. A member or former member of the Uniformed Services who, on March 31, 1992, was not a participant in the SBP and was entitled to retired pay could elect SBP during the open enrollment period. A member could make an election for spouse, former spouse, spouse/former spouse and child, child only, or a natural person with an insurable interest. If the member elected spouse or former spouse coverage at the maximum level, **then** the member could elect Supplemental SBP.

B. Existing Participants

1. A member with reduced SBP coverage could elect to increase the base amount of coverage.

2. A member could add spouse or former spouse coverage to child coverage. If adding spouse coverage, **then** existing child coverage could not be dropped. An election for former spouse coverage terminated any previous coverage. If adding a former spouse, **then** a member could drop coverage for children. A member could cover former spouse and children; however, the only children eligible were the children of the member-former spouse marriage. Thus, when a member with child coverage elected former spouse and child coverage, any children not the result of the member-former spouse marriage became ineligible and coverage for such children ceased.

3. A member could not change from spouse to former spouse coverage even if the spouse coverage and premium currently were suspended. A member could not change from former spouse to spouse coverage. A member with coverage for a natural person with an insurable interest (including a former spouse covered under the insurable interest category) could not change that election.

4. A member with spouse or former spouse coverage at the maximum level could elect Supplemental SBP.

C. No election could be deemed under the provisions of the open enrollment period.

D. An open enrollment election for a former spouse, by a member who is otherwise under a qualified court order to elect SBP coverage for a former spouse, is later subject to the provisions of that court order. This applies even though the open enrollment election was purely voluntary.

E. The open enrollment election was effective for premium purposes on the first day of the month after the election was received by the Secretary concerned, but not earlier than April 1, 1992. If the date received is prejudicial to the member, **then** the postmark date is considered the date the election was received.

F. The premium for an open season election was established as though the member first became a participant in SBP at the time of election.

G. In addition to the SBP premium for an open enrollment election for spouse or former spouse, there is an additional premium charged on the basis of the number of years the member has been retired. The number of years was determined from the date of initial retirement through the date the election became effective. Months and days less than a full year were ignored. The additional premium percentage was applied to the full base amount or, if the member was previously providing reduced coverage for a spouse or former spouse, to the increase in the base amount over the annuity base amount that previously existed. The premium addition did not apply to any member making an open season election who was currently paying an RSFPP premium for spouse coverage or, who was electing SBP coverage for spouse and who previously participated in SBP but who later withdrew from participation under the provision for totally disabled members. The additional premium percentage charged for an open season election is not refunded when recalculating SBP premium due to DIC award.

H. An open season election became void if the member died before the end of the 2-year survival period beginning on the cost-effective date in subparagraph 430902.E, **of this chapter**, with the exception of the member who made an open enrollment election for a spouse and that spouse was entitled before November 1, 1990, to receive DIC based on a previous marriage to another member. If an open season election was void, **then** the member's election reverted to any previously established coverage.

I. Any premium for the voided open enrollment election is refunded to the member's beneficiary under the open enrollment election. If the beneficiary predeceases the member, **then** there is no refund of premium.

430903. Open Enrollment March 1, 1999 Through February 29, 2000. **Public Law 105-261**, provided an open enrollment period from March 1, 1999 through February 29, 2000.

A. Eligible Member. An eligible member was a member or former member of the Uniformed Services who, on February 28, 1999:

1. Was not participating to the fullest possible extent in SBP and SSBP (or RCSBP and Reserve Component Supplemental Survivor Benefit Plan (RCSSBP));

2. Was previously eligible to elect SBP and/or SSBP (or RCSBP and/or RCSSBP) coverage at a greater level; and

3. Was entitled to retired pay or would have been entitled to retired pay under [10 U.S.C. 12731](#) (Chapter 67 as in effect before October 5, 1994), but was not yet age 60.

4. See paragraph [550505.F](#), of this volume, for eligibility of a Reserve Component member.

B. Coverage Limitations

1. A member could designate only the beneficiaries who satisfied the legal criteria for the category of coverage as of the date the election was filed. A member could not provide a level of coverage or elect for a beneficiary for which the member could not have made an election previously. For example, a member who was married upon retirement could not elect insurable interest coverage.

2. A member who previously participated in SBP but terminated participation on the second anniversary as provided in paragraph 430801, of this chapter, was ineligible to reelect SBP again during the open enrollment period.

3. An open season election by a member already entitled to retired pay was for a standard (SBP) annuity even if that member previously elected a reserve-component annuity (RCSBP or RCSSBP). An open enrollment election by a member who would have been entitled to retired pay under [10 U.S.C. 12731](#), but for the fact that member was under age 60 was a reserve-component annuity (RCSBP or RCSSBP). For additional information on the open season reserve-component annuity, see [Chapter 57](#), of this volume.

4. A spouse or former spouse election could include Supplemental SBP coverage.

5. No election could be made for a beneficiary other than the one currently protected under SBP except for the addition of child coverage to a spouse or former spouse election.

C. Elections Primarily Voluntary. The open season election was voluntary on the part of the member and was not subject to the concurrence of the member's spouse or former spouse. No court order could require a member to make an open season election. An election could not be deemed for former spouse coverage as a result of any such court order.

When an RCSBP election was made during an open enrollment period when the member had no existing election and the election was made for less than the maximum spouse coverage, spousal concurrence is required.

D. Making An Election. The member completed DD Form 2656-3 (Survivor Benefit Plan and Reserve Component Survivor Benefit Plan Open Enrollment Election). The election was submitted to the Military Service designated agent indicated in the Instructions portion of the DD Form 2656-3.

E. Effective Date of Election. The election was effective the first day of the month after the election was received. The date received was the date the election was first logged into the appropriate data system. If the log-in date was prejudicial to the payment of an annuity to the survivor (that is, the log-in date would preclude annuity payment) and the survivor had proof of an earlier mailing date, then the mailing date will be the date received. An election received before March 1, 1999, was deemed as having been received on February 28, 1999. An election received after February 29, 2000 was deemed as having been received on the date of the mail postmark within the open enrollment period.

F. Death of Member Within Two Years. If the member dies within 2 years of the effective date of the election, **then the** election is void. All open enrollment premiums for a void election are refunded to the person who would have been the beneficiary had the member lived the required 2-year period.

G. Open Enrollment Premiums. A member pays open enrollment premiums for elected coverage based on the number of years that elapsed since the member's first opportunity to elect SBP. In most cases, the first opportunity to elect SBP was upon retirement. If a member was not married at retirement, but married later, then the number of elapsed years will be figured from the first anniversary of the marriage. If the member was married at the time of retirement, **then** the date of the first opportunity to participate was the date of retirement, regardless of how the following years may have been divided between marriage and divorce.

1. There are two types of open enrollment premiums. The first premium type is the prospective premium that is collected each month beginning with the effective date of the election. The premium is collected in the same manner as though the member elected SBP at the earliest opportunity.

2. The second premium type was a one-time, buy-in premium. This premium was due and payable in a one-time, lump sum payment when the member filed an election. To lessen the financial impact to the member over time, DoD allows a portion of this premium to be deferred and deducted from retired pay in equal monthly installments over the 24-month period immediately following the effective date of the election.

a. The deferred amount could not exceed the total net retired pay the member expected to receive over the 24-month period. Regardless of any deferred amount, the member was considered obligated for the payment of the lump sum premium at the time of the election. If the member's net retired pay is reduced after the monthly installments

begin, [then](#) the member makes an immediate payment equal to the anticipated shortfall in monthly installments expected through the end of the original 24-month period.

b. The one-time, buy-in premium payments are credited to the Department of Defense Military Retirement Fund or other comparable account for non-DoD Services.

c. No other obligation is impacted by the one-time, buy-in premium. In particular, the dual compensation deduction (repealed October 1999) did not take into account the one-time, buy-in premium. The amount of disposable retired pay for former spouse payments from retired pay under [Chapter 29](#), of this volume, does not take into account the one-time, buy-in premium.

d. The one-time, buy-in premium was not considered a deduction due to an SBP election; rather it was the result of an election under [Public Law 105-261](#), the National Defense Authorization Act, Fiscal Year (FY) 1999. Since the one-time, buy-in premium is not considered a reduction in retired pay due to an election under [10 U.S.C. Chapter 73](#), even when paid through monthly installments, these amounts do not reduce the member's taxable retired pay. The premiums may be used as the basis in an annuity under standard tax law, in the same manner as SBP premiums the member remits directly when retired pay has been waived in favor of Civil Service annuity.

e. This type of premium is not refundable under [10 U.S.C. 1452](#) and [10 U.S.C. 1450\(e\)](#), when the surviving spouse is entitled to Dependency and Indemnity Compensation from the VA.

H. [Miscellaneous](#). [Public Law 105-261](#) allows additional premium amounts to protect the actuarial soundness of the SBP program against associated risks for open enrollment elections. The use of the pre-flat rate reduction, which is the two-part SBP premium formula with low-cost threshold shown in paragraph [450202](#), of this volume, does not apply to the open enrollment elections. Additionally, since the beneficiary of a person making an open enrollment election was considered ineligible for annuity under the Social Security Offset method (see [Chapter 46](#), of this volume), the premiums for open enrollment are associated with the two-tier annuity system.

★ 430904. [Open Enrollment October 1, 2005 Through September 30, 2006](#). Public Law 108-375 §645 of October 28, 2004, provided an open enrollment period from October 1, 2005, through September 30, 2006.

A. [Eligible Members](#). An eligible member is a member or former member of a Uniformed Service who, on September 30, 2005:

1. Is either;
 - a. Entitled to retired pay, or

b. Would be entitled to retired pay under 10 U.S.C. 12731, (as in effect before October 5, 1994), but for the fact of being under 60 years of age, and

2. Is not participating in SBP (or RCSBP if applicable), and was previously eligible to elect SBP or RCSBP coverage, or

3. Is participating in SBP (or RCSBP if applicable) at less than the maximum level for a spouse or former spouse, or is providing child-only coverage.

4. An election by an eligible member described in 430904.A.1.a., of this chapter, shall be for a standard annuity even if that member had previously elected a reserve component annuity. An election by an eligible member described in 430904.A.1.b., of this chapter, shall be for a reserve component annuity. Any member described in subparagraph 430904.A.2, who was previously a participant in SBP (or RCSBP if applicable), but elected to terminate participation under paragraph 430801 of this chapter, is not eligible to make an election during this open enrollment period.

B. Elections Allowed. There was two categories of elections allowed during this open enrollment period:

1. A member or former member who, on September 30, 2005, was otherwise eligible, but is not participating in SBP or RCSBP, may elect SBP (or RCSBP if applicable) for any type of coverage that the member or former member would have been eligible to elect and declined, or failed to elect, at an earlier opportunity.

2. A member or former member who, on September 30, 2005, was participating in SBP or RCSBP at less than the maximum level for a spouse or former spouse, or had elected child-only coverage, may elect to add coverage, up to the maximum level for a spouse or former spouse. In the case of a member or former member who had previously elected child-only coverage, the child-only coverage may be increased to an amount not to exceed the maximum base amount, or add coverage for a spouse, or a former spouse who is the parent of issue of that child, at a base amount not less than the amount provided for that child-only coverage. In addition, child coverage may be added to spouse or former spouse coverage previously in effect.

C. Coverage Limitations. A member may have only designated beneficiaries who satisfy the prescribed legal criteria for the category of coverage as of the date the election is filed. No open enrollment election may remove an existing beneficiary in order to provide coverage for a different beneficiary. A member may not have elected to cover a beneficiary or selected a level of coverage that could not have been in effect as the result of an election previously made by the member. For example, a member who was married upon retirement may not elect insurable interest coverage. Additionally, no elections for Supplemental SBP (SSBP) coverage may be made under this open enrollment period.

D. Elections Primarily Voluntary. The member's election under this open enrollment period was voluntary and was not subject to the concurrence of the member's spouse or former spouse. No court order may require a member to make an election during this open

enrollment period and no election may be deemed under paragraph 430503.C, of this chapter, as a result of any such court order. RCSBP election during the open enrollment period by a member or former member who has no existing election and who is making an election for less than full immediate spouse coverage requires spouse concurrence with such election under the requirements of paragraph 550201.G.

E. Making an Election. Members must have completed a DD Form 2656-9, Survivor Benefit Plan (SBP) and Reserve Component Survivor Benefit Plan (RCSBP) Open Enrollment Election. Elections must have been submitted to the appropriate Service point of contact as indicated in the instructions on DD Form 2656-9. All elections must have been postmarked by September 30, 2006.

F. Effective Date of Elections. Elections shall be effective the first day of the first calendar month following the date the election was received, and no election shall have an effective date prior to October 1, 2005.

G. Date Received. The date a valid election was received shall be the date the agent would have first logged the election into the appropriate data system. The mailing date was determined to be the date of receipt if the log-in date was prejudicial to payment of an annuity to the survivor (i.e., the log-in date would have precluded payment of an annuity); and the survivor had proof of an earlier mailing date. Elections received before October 1, 2005, shall be deemed as having been received on September 30, 2005. Elections received after September 30, 2006, shall be deemed as having been received on the date of mailing if the postmark was a date within the open enrollment period.

H. Opportunity to Cancel Election. A member may have cancelled an open enrollment SBP election by notifying the DFAS Cleveland Site in writing within 30 days of being notified by the finance center of the effective date of the election and the amount due to participate in this open enrollment period. See paragraph 430904.E, of this chapter. DFAS Cleveland Site must have received the written notification before the end of the 30-day period starting on the date of the letter notifying the member. In addition, an RCSBP election may have also been cancelled by notifying the appropriate Reserve Component Personnel Center in writing within 30 days of being notified that the RCSBP election was received. The reserve personnel center must have received the written notification before the end of the 30-day period starting on the date of the letter notifying the member.

I. Effect of Death Within Two Years. If a member died within two years of the effective date of the election, then the election was void. All open enrollment premiums shall have been refunded in a lump sum payment to the person who would have been the beneficiary had the member lived the required two years.

J. Open Enrollment Premiums. Members must have paid open enrollment premiums for elected coverage based on the number of years that have elapsed since the member's first opportunity to participate in SBP. Generally, the number of years that have elapsed begins on the date of the member's first opportunity to participate in SBP or RCSBP. For most members this will be the date of retirement. Under certain circumstances, the date may

differ. To find the correct date to be used, see Figure 43-1. See paragraph [450207](#), of this volume, regarding SBP/RCSBP cost factor tables or contact the DFAS Cleveland Site.

1. There are two types of open enrollment premiums. The first premium type will be collected prospectively each month beginning with the effective date of the election. Such premiums shall have been collected in the same manner as if the member elected to participate in the program at the earliest opportunity.

2. The second premium type is a one-time buy-in premium. This premium amount was due and payable in a one-time, lump sum payment at the time a member files an election. Although it is not required by law, as an administrative accommodation, a portion of the lump sum amount may have been deferred to lessen the financial impact and deducted from retired pay in 24 equal monthly installments beginning immediately following the effective date of the election.

a. The amount deferred may not have exceeded the total net retired pay the member expected to receive over this period. Regardless of any amount deferred, the member was considered obligated for payment of the full lump sum premium at the time of election. If the member's net retired pay was reduced for an unrelated matter after deductions begin, then the member shall have made an immediate payment equal to the anticipated shortfall in deductions from retired pay expected through the end of the original 24 month period.

b. Lump sum buy-in premium payments shall have been credited to the Department of Defense Military Retirement Fund, or other comparable account for non-DoD Services.

c. No other obligation shall have been impacted by these one-time buy-in premiums. The amount of disposable retired pay used to compute former spouse payments from retired pay under [Chapter 29](#), of this volume, does not take into account the one-time, buy-in premium, whether paid in one lump sum or monthly installments.

d. The lump-sum buy-in premium was not excluded from retired pay taxable income as required under section [4509](#), of this volume, since it was not a deduction due to an election under chapter 73, United States Code, but rather was a result of an open season election under this section, even when paid through monthly installments. The buy-in premium was due in full at the time of election. The option to make monthly payments from retired pay was not required by law; it was an administrative accommodation offered to members for their convenience so they may, if desired, distribute the financial impact of remitting the amount over 24-month period. Premiums may have been used as the basis in an annuity under standard tax law, in the same manner as premiums the member remitted directly to pay SBP premiums when retired pay was waived in favor of an annuity under the Civil Service Retirement System.

e. Since lump sum buy-in premium was not a reduction required under [10 U.S.C. 1452](#), no refund of the buy-in premium is authorized under [10 U.S.C. 1450\(e\)](#), when the surviving spouse was entitled to Dependency and Indemnity Compensation (DIC) from the Department of Veterans Affairs as required in [10 U.S.C. 1450\(e\)](#).

3. All spouse and former spouse premiums for open enrollment elections were based on the 6-1/2 percent flat rate cost in accordance with paragraph 450203, of this volume. Use of the alternative two-part cost formula with low-cost threshold as shown in paragraph 450202, of this volume, was not permitted. Separate cost factors for spouse and child, child only coverage and insurable interest coverage would have applied.

K. Credit Toward Paid-Up Coverage. Upon payment of the total amount of the premiums charged under this open enrollment period, the retired pay of a person shall be treated, for the purposes of paid up coverage at 30 years and age 70, as having been paid as if the person had elected to participate in the SBP program at the first opportunity.

	Member’s Status	Date Used to Determine Open Enrollment Premium
Spouse or Spouse and Child Coverage	Married at retirement and currently married to same spouse.	Date of retirement.
	Married at retirement and elected spouse SBP, lost spouse, premiums suspended, remarried and declined to cover new spouse.	First anniversary of the marriage to the new spouse. If remarried previous spouse who was SBP beneficiary at retirement, then effective date is date of remarriage.
	Not married at retirement, married later and did not elect SBP for spouse.	First anniversary of the marriage.
Former Spouse or Former Spouse and Child Coverage	Married at retirement, did not elect spouse coverage, divorced	Date of retirement.
	Unmarried at retirement, married, did not elect SBP, divorced.	First anniversary of first marriage.
	Divorced prior to retirement, declined SBP.	Date of retirement.
	Married at retirement, elected SBP, divorced, remarried but elected not to provide spouse coverage under section 1448(a)(6) of title 10, United States Code.	Date of divorce.
Other Coverage	Electing child only coverage.	Date of retirement or date child acquired, whichever is later.
	Electing insurable interest coverage.	Date of retirement.

★Figure 43-1 – Open Enrollment Buy-in Premium Date

BIBLIOGRAPHY**CHAPTER 43—SURVIVOR BENEFIT PLAN—ELECTIONS AND ELECTION CHANGES**

4301—ELECTION

DoDD 1332.27, paragraph 201c, January 4, 1974
Public Law 92-425, section 3(a), September 21, 1972
Public Law 93-155, November 16, 1973
★ 430106 [Public Law 108-375, section 645, October 28, 2004](#)

4302—ELECTION OPTION

10 U.S.C. 1447(2)
10 U.S.C. 1448(a) and (b)
DoDD 1332.27, paragraphs 201a, c, and d,
January 4, 1974
430202.B 10 U.S.C. 1448(b)(4)
430203 10 U.S.C. 1458(a) and (b)
10 U.S.C. 1457(b)
[Public Law 108-375, section 644, October 28, 2004](#)

4303—ELECTION DATA

Public Law 97-252, September 8, 1982
Public Law 98-525, October 19, 1984
Public Law 99-145, November 8, 1985
Public Law 99-661, section 641, November 14, 1986
10 U.S.C. 1458(c)
430303.E Public Law 99-145, November 8, 1985
430303.F 10 U.S.C. 1458(a) and (b)
10 U.S.C. 1457(b)

4304—IRREVOCABLE ELECTIONS, CORRECTIONS, AND DISCONTINUED PARTICIPATION

10 U.S.C. 1452(g), 1449
Public Law 99-145, November 8, 1985
10 U.S.C. 1448(a), 1454
430401.E 10 U.S.C. 1448(b)(1)(B)

4305—ELECTION COVERAGE

430501.A 10 U.S.C. 1448(a)
10 U.S.C. 1458(a)
430501.B 10 U.S.C. 1448(a)
430501.C 10 U.S.C. 1448(a)(4)
Public Law 97-35, August 13, 1981
Public Law 97-252, September 8, 1982
Public Law 98-525, October 19, 1984

	10 U.S.C. 1454
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	10 U.S.C. 1458(a)
430501.F	10 U.S.C. 1448(a)(5)
430501.E.	Public Law 108-375, section 644, October 28, 2004
430501.G	10 U.S.C. 1448(b)(3)
	10 U.S.C. 1458(e)
★ 430502	Public Law 108-136, section 645 (b), November 24, 2003
430503	10 U.S.C. 1448(b)
430503.A	10 U.S.C. 1458(a), (c)
	Public Law 99-661, section 645, November 14, 1986
430503.B	10 U.S.C. 1448(b)
	10 U.S.C. 1458(d)
	Public Law 99-661, section 645, November 14, 1986
430503.C	10 U.S.C. 1450(f)
	Public Law 99-661, section 641, November 14, 1986
	10 U.S.C. 1459
430503.D	Public Law 105-261, section 643, October 17, 1998
430504	10 U.S.C. 1458(a)(3)
430505.A	10 U.S.C. 1450(d)
430505.F	5 U.S.C. 8332(c)
4306—COMBINED RSFPP AND SBP COVERAGE	
430604	Public Law 92-425, section 3(b), September 21, 1972
4307—CHANGES IN ELECTION AND COVERAGE	
	Public Law 99-145, November 8, 1985
	10 U.S.C. 1450(f)
	RSFPP/SBP Board Item 77-2, February 23, 1977
430701	Public Law 105-85, section 642, November 18, 1997

430701.A	10 U.S.C. 1448(a)(6) 10 U.S.C. 1458(g)
430701.A.4	10 U.S.C. 1458(a)
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430804.A.4	10 U.S.C. 1458(i) 10 U.S.C. 1460a
430804.B	10 U.S.C. 1452(g)
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★ 430902.H ★ 430904	Public Law 102-484, section 643, October 23, 1992 Public Law 108-375, section 645, October 28, 2004 OUSD (P&R) Memorandum, August 1, 2005