

**VOLUME 7B, CHAPTER 44: “SURVIVOR BENEFIT PLAN (SBP) -
BENEFICIARIES”**

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 **January 2016** is archived.

PARAGRAPH	EXPLANATION OF CHANGE/REVISION	PURPOSE
All	Updated formatting to comply with current administrative instructions.	Revision
440201.F	Revised information based on the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2017.	Revision
440202.F	Revised information based on the NDAA for FY 2017.	Revision
440203.B	Revised information based on the NDAA for FY 2017.	Revision
440206.C	Revised information based on the NDAA for FY 2017.	Revision
440207	Added a new “Special Needs Trust (SNT)” paragraph based on the NDAA for FY 2015.	Addition
440208	Added a new “Exception” paragraph.	Addition
Bibliography	Updated Bibliography.	Revision

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CHAPTER 44

SURVIVOR BENEFIT PLAN (SBP) – BENEFICIARIES

4401 GENERAL

440101. Purpose

The eligible beneficiaries under the SBP (also referred to as the Plan) are the spouse and/or dependent children, a former spouse and/or dependent children, or a natural person with an insurable interest, providing they meet certain eligibility requirements. The election, if required, must be received within the time period allowed. An individual may not receive more than one annuity as the surviving spouse or former spouse of different members (see Chapter 46); however, an individual may be the recipient of two or more annuities concurrently, as long as only one is a spouse or former spouse annuity. For example, the child of two members could receive an annuity from each parent, or an individual who was a spouse beneficiary of one member could also be a beneficiary of another member under the insurable interest category.

440102. Authoritative Guidance

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

4402 ELIGIBLE BENEFICIARIES

*440201. Spouse (Including the Spouse of a Common-Law Marriage)

A. If the spouse is married to a retiree on date of retirement, the spouse is an eligible beneficiary. The spouse is automatically designated as the beneficiary even if the beneficiary data is not received before date of retirement. However, the spouse is not automatically the beneficiary if prior to retirement the member elects, with spouse's concurrence, to not provide coverage for the spouse and/or children.

B. If the member elected spouse coverage at retirement and the member's previous spouse has become ineligible for SBP due to death or divorce, the spouse who marries the member after the date of retirement is the eligible beneficiary. Spouse coverage is resumed upon the first anniversary of remarriage or birth of a child of that remarriage, whichever is earlier, unless the member elects not to resume spouse coverage within 1 year of the remarriage.

C. If the spouse is married to the member after the date of retirement, and the member did not have a spouse at retirement and did not elect insurable interest coverage, the spouse is an eligible beneficiary only if the member elects to provide spouse SBP coverage within 1 year of the marriage. The spouse coverage is effective on the first anniversary of the marriage or birth of a child of that marriage, whichever is earlier.

D. If the spouse is married to a retiree at the time of retirement and the member elected spouse coverage, then divorced, and later remarried the same spouse, the spouse becomes

eligible immediately upon remarriage provided spouse coverage was resumed. However, the member has up to 1 year after remarriage to decide whether to resume spouse coverage.

E. If the spouse is married to a retiree after date of retirement, then divorces, and later remarries the member, the spouse becomes eligible upon **the** first anniversary of remarriage or date of the birth of **a** child of that remarriage. The election must be received within 1 year of the remarriage.

* F. A spouse who is married to a member who dies in the line of duty while on active or **inactive duty**, or to a retirement eligible member regardless of the line of duty determination, is an eligible SBP beneficiary. See Chapters 46 **and** 54.

G. A member may change election coverage from a natural person with insurable interest to coverage for a spouse within 1 year of marriage. The spouse becomes an eligible beneficiary upon the first anniversary of the marriage or the date of birth of **a** child of that marriage, whichever is earlier, provided the member changes to spouse coverage. Until the spouse and/or child are eligible, the previously elected class of beneficiary remains eligible.

H. A member may change election coverage from former spouse to coverage for a spouse in accordance with Chapter 43, paragraph 430602 at any time following remarriage, provided the former spouse is still living at the time the Secretary concerned receives the member's election. If the election change is requested more than 1 year from the date of the member's marriage, then the spouse becomes an eligible beneficiary on the date of the election receipt and the associated premium is effective on the first day of the month following receipt of election.

*440202. Children (Including Children of a Common-Law Marriage)

A. Child Is An Eligible Beneficiary. The child is an eligible beneficiary only if the child is:

1. Unmarried and:
 - a. Under age 18 (including a child serving on active duty in the Uniformed Services);
 - b. At least 18 but under 22 and pursuing a full-time course of study in a recognized educational institution; or
 - c. Incapable of self-support because of physical or mental incapacity, which existed before the 18th birthday or was incurred before age 22 while pursuing a full-time course of study; and

2. A child of the member, which includes:
 - a. A child determined by paternity test or a court of competent jurisdiction to be a child of the member (documentation will be required to substantiate a claim);
 - b. An adopted child; or
 - c. A stepchild, foster child, or recognized natural child, if that stepchild, foster child, or recognized natural child lived with the retiree in a regular parent-child relationship.

B. Special Eligibility Rules for Child Seeking Full-Time Course of Study. A child whose 22nd birthday occurs before July 1st or after August 31st of a calendar year, and while regularly pursuing such a course of study or training, is considered to have become 22 years of age on the first day of July after that birthday. Child eligibility terminates for school nonattendance. If the child resumes school attendance, then eligibility is reinstated. See Chapter 46.

C. Special Eligibility Rules for Foster Child. A foster child must have resided with the retiree at time of death, received over one-half of his or her support from the retiree, and not be cared for under a social agency contract.

D. Relatives or Grandchildren. A relative of the member (such as a grandchild) may qualify as an eligible child beneficiary if a foster parent/foster child relationship exists. Adoption of a grandchild is not required for the member to designate that child as an eligible child beneficiary.

E. Child of Former Spouse. A child of the member and the former spouse is an eligible child beneficiary, if the member elects former spouse and child coverage. If a member who elected spouse and child coverage later divorces, the child coverage continues after the divorce. However, if the coverage is changed to provide coverage for the former spouse, the child coverage will not continue unless the new coverage elected is former spouse and child coverage.

* F. Active or Inactive Duty. A child of a member who died on active or inactive duty is an eligible beneficiary provided:

1. There is no eligible former spouse established by a court order;
2. There is no eligible surviving spouse; or
3. The Service Secretary has determined the annuity is payable to the child(ren) in lieu of the surviving spouse. See Chapters 46 and 54.

G. Termination by Marriage. Child eligibility terminates by marriage of the child, regardless of whether the child is an incapacitated child entering into a valid marriage with another incapacitated individual. The termination of a child's marriage by death or divorce does not serve as a basis for reinstating child coverage, regardless of age or school attendance. An

annulment of the child's marriage which renders the marriage void or invalid, or a judicial decree by a court of competent jurisdiction declaring the marriage void, may serve as a basis for reinstating child coverage.

*440203. Spouse and Children

Eligibility requirements are as shown in paragraphs 440201 and 440202.

A. General. The spouse is the primary beneficiary with coverage passing to the children if the spouse remarries before age 55, dies, or otherwise becomes ineligible. If the spouse again becomes eligible due to a remarriage ending in death or divorce, the annuity to the spouse resumes.

* B. Death on Active or Inactive Duty. If the annuity is payable because the member dies on active or inactive duty, and there is no eligible spouse, the annuity will be paid to any dependent children. In the case of a surviving spouse and children, the Service Secretary may pay the annuity to the member's dependent children in lieu of an annuity to the spouse.

440204. Former Spouse

A former spouse is an eligible beneficiary if:

A. The former spouse was the member's former spouse when the member became eligible to participate in the Plan and the member elected the former spouse as beneficiary or the former spouse submits a valid deemed election (see Chapter 43); or

B. The former spouse was not the member's former spouse at the time the member became eligible to participate in the Plan, and the prior spouse election is changed to provide coverage for the former spouse or the former spouse submits a valid deemed election pursuant to Chapter 43, paragraph 430504. A former spouse acquired after the member became eligible to participate in the Plan may only be an eligible beneficiary if married to the member for at least 1 year or the parent of issue of the marriage.

440205. Former Spouse and Child

If coverage includes child, then the former spouse is the primary beneficiary with coverage passing to the children if the former spouse remarries before age 55, dies, or otherwise becomes ineligible. The child is an eligible beneficiary provided the conditions in subparagraph 440202.A are met and the child resulted from the member-former spouse's marriage.

*440206. Natural Person with Insurable Interest

An eligible natural person with insurable interest is:

A. A person who has a reasonable and lawful expectation of pecuniary benefit from the continued life of the member. This category may include parents, stepparents,

grandparents, grandchildren, aunts, uncles, sisters, brothers, half-sisters, half-brothers, dependent or non-dependent child or stepchild, or any other person more closely related than cousin;

B. Any individual having a reasonable and lawful basis, founded upon the relationship of parties to each other, either pecuniary or of blood or affinity, to expect some benefit or advantage from the continuance of the life of the retiree. Proof of financial benefit from the continuance of the life of the member is required for persons other than those listed in subparagraph 440205.A; or

* C. In the case of a member who dies on active [or inactive](#) duty and no other beneficiary is eligible to receive an annuity, a person who is, as determined by the Secretary concerned, a dependent of that member as defined in [Title 10, United States Code \(U.S.C.\), section 1072\(2\)](#).

*440207. [Special Needs Trust \(SNT\)](#)

[Service members and retirees who elect child coverage may direct payment of an SBP annuity for a dependent child to an SNT. If an SNT was not designated as a beneficiary prior to the death of the Service member or retiree who had previously elected child coverage, the disabled dependent child's surviving parent, grandparent, or court-appointed legal guardian or fiduciary may irrevocably elect to designate an SNT as beneficiary. An SNT is also known as a supplemental needs trust. An SNT is a legal instrument that can be established by certain individuals in order to ensure that assets are retained that can be used for the supplemental needs of a certain disabled individual, without disqualifying that individual from other Federal or State benefits which that person may be entitled to receive. To be an eligible beneficiary, the SNT must be for the benefit of a person considered disabled under \[42 U.S.C. § 1382c\\(a\\)\\(3\\)\]\(#\) and in accordance with the SBP statute. The SNT must also comply with \[42 U.S.C. § 1396p\\(d\\)\\(4\\)\]\(#\). See Chapter 46 for further information regarding qualifying an SNT as a beneficiary.](#)

*440208. [Exception](#)

[If the beneficiary is responsible for the death of the retiree, the annuity may not be paid to that person unless evidence is received which clearly absolves the beneficiary of any felonious intent. This does not preclude the person from receiving the annuity in the capacity of custodian or guardian of minor children.](#)

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