

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

SUMMARY OF MAJOR CHANGES

Changes are identified in this table and also 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 [February 2018](#) is archived.

PARAGRAPH	EXPLANATION OF CHANGE/REVISION	PURPOSE
All	Updated formatting to comply with current administrative instructions.	Revision
2.1 (440102)	Updated language for “Authoritative Guidance” to comply with new instructions.	Revision
2.2.2 (440202.B)	Added information for clarification. Added information to include eligible children who enter active duty, serve as a cadet or midshipman at a service academy or scholarship student.	Addition
2.4.3 (440204.C)	Added information to include eligibility of former spouses because the member dies on active duty.	Addition
References	Changed the name from “Bibliography” to “References” to comply with new requirements and updated some references.	Revision

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CHAPTER 44**SURVIVOR BENEFIT PLAN (SBP) – BENEFICIARIES**

1.0 GENERAL (4401)

1.1 Purpose (440101)

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.

*1.2 Authoritative Guidance (440102)

The pay policies and requirements established by DoD in this chapter are derived primarily from and prepared in accordance with the United States Code (U.S.C.), including Titles 10 and 38. Due to the subject matter in this chapter, the list of authoritative sources is extensive. The specific statutes, regulations, and other applicable guidance that govern each individual section are listed in a reference section at the end of the chapter.

2.0 ELIGIBLE BENEFICIARIES (4402)

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

2.1.1. 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.

2.1.2. 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.

2.1.3. If the spouse **marries** 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.

2.1.4. If the spouse is married to a retiree at the time of retirement and the member elected spouse coverage, then divorced (**and no former spouse coverage is established**), 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.

2.1.5. If the spouse is married to a retiree after date of retirement (**and spouse coverage is elected**), then divorces (**and no former spouse coverage is established**), 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.

2.1.6. 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.

2.1.7. 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.

2.1.8. 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. 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.

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

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

2.2.1.1. Unmarried and:

2.2.1.1.1. Under age 18 (including a child serving on active duty in the Uniformed Services);

2.2.1.1.2. At least 18 but under 22 and pursuing a full-time course of study in a recognized educational institution; or

2.2.1.1.3. Incapable of self-support because of physical or mental incapacity, which existed before the [child's](#) 18th birthday or was incurred before age 22 while pursuing a full-time course of study; and

2.2.1.2. A child of the member, which includes:

2.2.1.2.1. 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);

2.2.1.2.2. An adopted child; or

2.2.1.2.3. 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.

* 2.2.2. Special Eligibility Rules for Child Seeking Full-Time Course of Study.

2.2.2.1. 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.

2.2.2.2. [The eligibility of a child over the age of 18 terminates if the child does not maintain a certified program of full-time course of study or training in a high school, trade school, technical or vocational institute, junior college, college, university or comparable recognized educational institution. If the child resumes schooling as described, eligibility is reinstated \(see Chapter 46\).](#)

2.2.3. 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.

2.2.4. 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.

2.2.5. 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 [only](#), the child coverage will not continue. [The election of former spouse coverage will terminate the child coverage](#) unless the new coverage elected is [includes both](#) former spouse and child coverage.

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

2.2.6.1. There is no eligible former spouse established by a court order;

2.2.6.2. There is no eligible surviving spouse; or

2.2.6.3. The Service Secretary has determined the annuity is payable to the child(ren) in lieu of the surviving spouse. See Chapters 46 and 54.

2.2.7. 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.

2.2.8. Child Entering Active Duty. The child of a deceased member who is under 18 years of age and serving on active duty in a uniformed service is an eligible beneficiary until their 18th birthday even though they are provided pay, quarters, and subsistence by the Government.

2.2.9. Child Serving as a Cadet or Midshipman at Service Academy or Scholarship Student. The child of a deceased member who is under age 22 and serving as a cadet or midshipman at a service academy, or are enrolled in an institute of higher learning under a military scholarship program, is an eligible beneficiary even though they provided pay, quarters, and subsistence by the Government.

2.3 Spouse and Children (440203)

Eligibility requirements are as shown in paragraphs 2.1 and 2.2.

2.3.1. 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.

2.3.2. 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 or former 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. See subparagraph 2.2.6 and Chapters 46 and 56.

2.4 Former Spouse (440204)

A former spouse is an eligible beneficiary if:

2.4.1. 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

2.4.2. 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. 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 an issue of the marriage.

2.4.3. See Chapter 46, paragraph 460302 if the annuity is payable because the member dies on active or inactive duty.

2.5 Former Spouse and Child (440205)

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 2.2.1 are met and the child resulted from the member and former spouse's marriage.

2.6 Natural Person with Insurable Interest (440206)

An eligible natural person with insurable interest is:

2.6.1. 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;

2.6.2. 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 2.5.1; or

2.6.3. 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 [10 U.S.C. § 1072\(2\)](#).

2.7 Special Needs Trust (SNT) (440207)

Service members and retirees who elect child coverage may direct payment of a SBP annuity for a dependent child to a SNT. If a 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 a SNT as beneficiary. A SNT is also known as a supplemental needs trust. A 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 a SNT as a beneficiary.

2.8 Exception (440208)

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.

REFERENCES*CHAPTER 44 – SURVIVOR BENEFIT PLAN (SBP) – BENEFICIARIES****1.0 – GENERAL (4401)**

- 1.1 10 U.S.C. § 1447
10 U.S.C. § 1450(a) and (b)

2.0 – ELIGIBLE BENEFICIARIES (4402)

- 2.1.1 10 U.S.C. § 1448(a)(2)
2.1.2 Department of Defense Instruction (DoDI)1332.42,
June 23, 2009
2.1.3 10 U.S.C. § 1447(7) and (8)
10 U.S.C. § 1448(a)(6)
2.1.4 10 U.S.C. § 1448(a)(6)
10 U.S.C. § 1447(7) and (8)
53 Comptroller General (Comp Gen) 470
B-180407, January 16, 1974
53 Comp Gen 847, B-179018, May 10, 1974
2.1.6 [National Defense Authorization Act \(NDAA\)](#),
FY 2017, Public Law (PL) 114-328, section 642
10 U.S.C. § 1448
2.1.7 10 U.S.C. § 1447(7) and (8)
10 U.S.C. § 1448(a)(6)
2.1.8 10 U.S.C. § 1450(f)(1)(C)
2.2.2 DoDI 1332.42, June 23, 2009
10 U.S.C. § 1447(11)
2.2.6 NDAA, FY 2017, PL 114-328, section 642
10 U.S.C. § 1448
2.2.8 [53 Comp. Gen. 420, B-178966, December 6, 1973](#)
2.2.9 [53 Comp. Gen. 420, B-178966, December 6, 1973](#)
2.3 38 U.S.C. § 103
10 U.S.C. § 1448(d)
10 U.S.C. § 1448(f)
2.3.2 NDAA, FY 2017, PL 114-328, section 642
10 U.S.C. § 1448
2.4 10 U.S.C. § 1408
38 U.S.C. § 103
10 U.S.C. § 1448(b)
2.5 10 U.S.C. § 1448(b)(4)
2.6 Comp Gen, B-179465, July 19, 1974
52 Comp Gen 973, B-178270, June 26, 1973
10 U.S.C. § 1448(d)(6)(A)
2.7 NDAA for FY 2015, PL 113-291, section 624

REFERENCES, Continued

- 2.8 10 U.S.C. §§ 1448 and 1450
Comp Gen B-187743, July 7, 1977