

Survivor Benefit Plan (SBP)

(10 U.S.C. § 1447 and § 1448)

Survivor Benefit Plan was first established under Public Law 92-425 and became effective on September 21, 1972, for retired service personnel and for commissioned officers of the Public Health Service and National Oceanic and Atmospheric Administration (NOAA). Since SBP has gone through several changes over the years, I will be speaking primarily on current policies.

SBP is a continuous lifetime annuity that is sponsored and subsidized by the DoD for eligible beneficiaries of deceased military retirees who paid part of their retirement each month so that the beneficiaries can have financial support after their death. It is also available to eligible survivors of servicemembers who died while on active duty. These servicemembers may include Reservists and National Guard members who died while called up to federal duty. Reservists are also allowed to purchase SBP once they have 20 years of qualifying service for reserve retirement pay. Like military retirement, SBP is taxable income.

Although SBP is not automatic at the time of retirement since there are choices and premiums involved, a married retiree cannot simply decline SBP or reduce it from full coverage without the spouse's permission. In addition, if the retired veteran *is* married and opts out of SBP, coverage is barred for all future spouses. See [10 U.S.C. § 1448\(a\)\(3\)](#).

If there is SBP coverage for a spouse and the veteran and the spouse get divorced, the veteran can voluntarily convert coverage to a former spouse within one year of the divorce decree and even increase the coverage. A court can also demand coverage for the divorced spouse as well as an increase in coverage. [10 U.S.C. § 1448\(b\)\(2\)](#).

Once the amount of SBP annuity is chosen, the retired veteran will pay monthly premiums based on that chosen amount. These premiums are automatically deducted from the veteran's *gross* retirement pay. As with military retirement itself, premiums can go up with a Cost-of-Living Adjustment (COLA).

Once the veteran has paid premiums for 360 months and is at least 70 years of age, there would be no more required premiums to continue coverage.

Under three circumstances, SBP may be voluntarily stopped. One is within one year of the second and third anniversary following the first receipt of retired pay; however, stopping coverage will not result in a refund of paid premiums, and there would be no benefits upon the death of the veteran. In order to stop benefits, the surviving spouse or former spouse must give permission, and all future SBP is barred.

A second and third way that SBP can be voluntarily stopped is when the veteran has been continuously rated for a service-connected disability at 100% for ten years, or has been continuously rated 100% for five years from the date of discharge. The reason for this allowance is the fact that under both of these circumstances, the survivor would be eligible for DIC upon the death of the veteran. If the veteran's disability is ever lowered from 100%, Defense Finance Accounting Service (DFAS) is automatically notified by the VA and SBP can be reinstated.

Once a beneficiary becomes ineligible due to regulations set forth in law, SBP premiums stop. This can happen when a spouse or insurable interest person dies, or when a child is no longer eligible due to age (*which is 22 if still in school or 18 if not in school*) or due to the child's marital status. There is no age limitation for an unmarried child who was permanently and totally disabled prior to the age of 18, or before the age of 22 while still in school, and who is incapable of self-support. See [10 U.S.C. § 1447\(11\)](#).

There are certain circumstances where a category of previously stopped benefits could resume, such as in the case where the veteran later adopts an otherwise eligible child or in the case where the veteran remarries. Both of these circumstances have special rules that accompany them.

SBP coverage is calculated at 55% of the veteran's retirement pay; however, the veteran can choose to have this calculation based on a portion or on all of the retirement pay, but in the case of a married veteran, the spouse must give written and notarized consent to have the base lower than the maximum allowed. The higher the base, the higher the SBP and the higher the premiums.

In the case where a servicemember has died while on active duty, the amount that the beneficiary receives is equal to 55% of what the servicemember's pay would have been if the servicemember had retired with a 100% disability.

Plan options are available for surviving spouses, former spouses, and children. In the case where there is no eligible spouse or children, persons with a natural insurable interest may have SBP coverage.

Surviving spouses of servicemembers who died while on active duty or inactive duty in the line of duty are typically eligible for SBP, provided that they do not remarry until after the age of 55 and provided that there is no former spouse who is already receiving SBP pursuant to a court order, and provided that the veteran died on or after September 10, 2001. If the surviving spouse remarries before the age of 55 and later becomes single, SBP can be reinstated.

An eligible spouse could be someone to whom the veteran (or servicemember) was married to at the time of death, even if the marriage occurred after retirement. If the marriage occurred after retirement, then the marriage must have lasted at least one year prior to the veteran's death.

Eligible children may receive SBP on their own, but only if the surviving spouse has died or has become ineligible; otherwise, their SBP would be covered under the "*spouse and children*" category. Children's SBP, independent of a spouse's, is divided equally between the veteran's children but is still based on 55% of the veteran's retired pay. See [10 U.S.C. § 1450](#).

The DoD defines a person with "*insurable interest*" as someone who has reasonable and lawful expectation of financial support from the insured if the insured had continued to live. This person with an insurable interest might be a veteran's sibling, or a child that is over the age of 22, or a parent, or even a business partner of the veteran. See [10 U.S.C. § 1448\(b\)\(1\)](#).

There are several wonderful perks to SBP; first, the amount of the benefit adjusts for cost of living and inflation. Second, is related to taxes. Although SBP is taxable to the beneficiary, the tax rate is reduced from that of other income, and as I previously mentioned, premiums are taken out of the veteran's gross retirement pay. A third perk is that the premiums are reduced, because the

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