



# THE SURVIVOR BENEFITS PLAN

*\*Information synthesized from the Military Officers Association of America  
Survivor Benefit Plan publication\**



The Survivor Benefit Plan (SBP), was created by Congress as a voluntary contribution program to provide protection for military retirees' survivors. All active duty service members automatically are covered by SBP. At retirement, service members must decide if they want to continue coverage for their survivors for a premium fee. Unlike life insurance, the SBP annuity is not a lump-sum payment but a lifetime benefit to your eligible beneficiaries, providing a regular, reliable income that cannot be maxed out. SBP holds several key advantages over alternative plans: The benefit amount increases regularly to keep pace with inflation, Premiums are pretax, and premiums are subsidized by the federal government.

## **CHANGES TO THE SBP**

The Fiscal Year 2005 National Defense Authorization Act (NDAA) (P.L.108-375, Oct. 28, 2004), contained the most important change to SBP in years – the phase-out of the inequitable and benefit-reducing SBP Social Security offset. As of April 1, 2008, recipients of SBP no longer have their annuities reduced/offset by Social Security entitlement. In regards to same-sex marriage, a valid marriage certificate issued by any state on or after June 26, 2015, is recognized as valid for SBP purposes.

## **ENROLLMENT INTO SBP**

In general, the decision to elect SBP coverage must occur before the date of your military retirement. If you are not married and do not have dependent children at the time you retire, you can enroll in SBP later. Just remember, you must file the SBP election within one year after your marriage or acquisition of a dependent child.

Under the following circumstances, you can enroll in or make changes to your SBP election after your retirement:

- New dependents;
- Divorce;
- Death of spouse and/ or
- Remarriage

## **SURVIVORS OF SERVICE MEMBERS WHO DIE WHILE ON ACTIVE DUTY**

Retroactive of September 10, 2001, SBP was amended to benefit survivors of all service members who die on active duty. Survivors of those who die on active duty are entitled to SBP annuity of 55 percent of the deceased service member's retired pay - with retired pay being calculated as if the service member had retired on the day of death. For service members with less than 30 years of service, this retirement is calculated as though they had retired on total disability, or 75 percent of base pay. Those with 30 to 40 years of service would have a retired base pay of 75 to 100 percent. If the surviving spouse of an active duty service member has dependent children, the service secretaries, in consultation with the surviving spouse, may opt to have any dependent children receive the SBP annuity. Dependent children are also eligible to receive the SBP annuity when there is no eligible surviving spouse.

## **SPOUSAL CONCURRENCE**

The law requires you to obtain your spouse's concurrence in writing if you do not elect the maximum spouse coverage at the time of retirement. If all requirements for an election needing the spouse's concurrence have not been satisfied before retirement, full spouse costs and coverage will be implemented, regardless of any request by the service member to do otherwise. Spousal concurrence is not required if you elect to provide coverage for a former spouse or former spouse and children.

## **PAYMENTS FOR INCAPACITATED SURVIVORS**

You may choose to establish a court-appointed guardian or a representative payee for your designated SBP beneficiary who is mentally or physically incapable of self-support. There is no age limit for SBP payment to beneficiaries who are incapacitated children. Payments will be made to unmarried children who are mentally or physically incapable of self-support because of a condition that existed before age 18 (or before age 22 if in school full-time).

SBP payments are made to a court-appointed guardian only when the annuitant is incapable of managing his or her personal financial affairs.

The representative payee has to certify this with periodic accounting of expenditures and investments unless the representative payee is a close family member or a government or financial institution.

A change to SBP law in 2016 allows retirees to designate a special needs trust (SNT) as the SBP payee for an incapacitated child. Previously, only a person could receive payments from SBP. The benefit of an SNT is that the income from SBP to an SNT does not count against the incapacitated child beneficiary for state or federal program assistance. Per the new policy, you should currently have “Spouse and Child” or “Child” as your beneficiary status. Your child must be documented with your pay agency as being incapacitated. Only children and no other incapacitated dependents are allowed under this provision.

## **ADDITIONAL CONSIDERATIONS**

If you add a new dependent child after all your other children have become ineligible for an annuity and all premiums for their coverage have been terminated, the newly acquired child is eligible for an annuity even if you fail to notify your pay agent of the child’s existence. You would be responsible for all delinquent premiums before annuity payments could begin. If you can document that a grandchild lives with you and is supported by you, the grandchild can qualify as a dependent child with certain limitations.

This situation can become very technical. Discuss your specific situation thoroughly with your pay agent. If both you and your spouse are SBP participants, it is possible for your children to receive more than one SBP annuity if you both designate the children as your beneficiary.

## **CHANGING YOUR SBP COVERAGE**

It is your responsibility to notify your pay agent when the status of a beneficiary changes. (See the list of pay agents in Appendix B.) Notification, with supporting documentation, should be made immediately after a change occurs so the appropriate adjustment may be made to your retired pay account. Examples of documentation include:

- Copy of a death certificate when reporting the death of a former spouse;
- Copy of a divorce decree and property settlement (if applicable) when reporting a divorce from a former spouse; or
- Copy of a marriage certificate when reporting a remarriage of a former spouse prior to age 55

**DISCLAIMER: THIS HANDOUT PROVIDES A GENERAL EXPLANATION OF THE SURVIVOR’S BENEFITS PLAN. DO NOT RELY EXCLUSIVELY ON THIS HANDOUT. IF YOU HAVE ADDITIONAL QUESTIONS OR SEEK ADVICE REGARDING THIS SUBJECT PLEASE:**

**CONTACT THE LAWYER REFERRAL SERVICE, OF THE SOUTH CAROLINA BAR, AT 1-800-868-2284 (IN SUMTER: 803-799-6653) FOR A REFERRAL TO A LAWYER WHO PRACTICES IN THIS AREA OF LAW. IF YOU ARE INDIGENT AND UNABLE TO PAY FOR A LAWYER’S SERVICE, YOU MAY WANT TO CONTACT LATIS AT 1-888-346-5592 TO SEE IF YOU QUALIFY FOR FREE OR REDUCED LEGAL SERVICES.**

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