



Department of Defense **INSTRUCTION**

NUMBER 1332.42

June 23, 2009

USD(P&R)

SUBJECT: Survivor Annuity Program Administration

References: See Enclosure 1

1. PURPOSE. This Instruction:

a. Reissues DoD Instruction (DoDI) 1332.42 (Reference (a)) in accordance with the authority in DoD Directive (DoDD) 5124.02 (Reference (b)) and the guidance in DoDD 1332.27 (Reference (c)).

b. Updates responsibilities and procedures for administering the Survivor Annuity Program, which is comprised of the Survivor Benefit Plan (SBP) and the Reserve Component Survivor Benefit Plan (RC-SBP) (hereafter referred to collectively as the “Program”), codified in subchapter II of chapter 73 of title 10, United States Code (U.S.C.) (Reference (d)).

2. APPLICABILITY

a. This Instruction applies to OSD, the Military Departments (including the Coast Guard at all times, including when it is a Service in the Department of Homeland Security by agreement with that Department), the Chairman of the Joint Chiefs of Staff and the Joint Staff, the Combatant Commands, the Office of the Inspector General of the Department of Defense, the Defense Agencies, the DoD Field Activities, and all other organizational entities within the Department of Defense (hereafter referred to collectively as the “DoD Components”).

b. This Instruction does not apply to:

(1) These other provisions for survivor benefits enacted by Congress:

(a) The Minimum Income Widows Program.

(b) Annuities for Certain Military Surviving Spouses.

(c) Benefits for widows of active duty members who were eligible for retired pay and who died while serving on active duty prior to the implementation of SBP.

(2) The Retired Serviceman's Family Protection Plan. (See DoDD 1332.17 (Reference (e)).)

3. DEFINITIONS. Terms used in this Instruction are defined in section 1447 of subchapter II of chapter 73 of Reference (d), and in the Glossary of this Instruction.

4. POLICY. It is DoD policy according to Reference (c) that the Program shall be effectively implemented and that the people to whom it pertains shall be informed and educated about the Program prior to becoming eligible for retirement.

5. RESPONSIBILITIES. See Enclosure 2.

6. PROCEDURES. Enclosure 3 provides procedures for the Program. Volume 7B of DoD 7000.14-R (Reference (f)) provides specific implementing instructions.

7. INFORMATION REQUIREMENTS

a. All forms referred to in this Instruction are exempt from licensing in accordance with paragraph C4.4.2. of DoD 8910.1-M (Reference (g)).

b. The following forms are used in the Program in accordance with DoDI 7750.07 (Reference (h)) and are available on the Internet at www.dtic.mil/whs/directives/infomgt/forms/ddforms2500-2999.htm:

(1) DD Form 2656, "Data for Payment of Retired Personnel." Used to collect information needed to establish a retired and/or retainer pay account.

(2) DD Form 2656-1, "Survivor Benefit Plan (SBP) Election Statement for Former Spouse Coverage." Used by a member to elect Program coverage for a former spouse.

(3) DD Form 2656-2, "Survivor Benefit Plan (SBP) Termination Request." Used by a member to elect to discontinue Program coverage and to notify the member of the advantages and disadvantages of making such a request.

(4) DD Form 2656-5, "Reserve Component Survivor Benefit Plan (RCSBP) Election Certificate." Used by members to elect Reserve Component Program coverage.

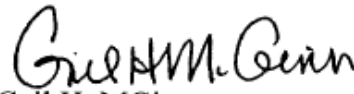
(5) DD Form 2656-6, "Survivor Benefit Plan Election Change Certificate." Used to change a Program election when the member has a change in dependency or marital status.

(6) DD Form 2656-7, "Verification for Survivor Annuity." Used by a beneficiary to verify information necessary to start annuity payments.

(7) DD Form 2656-10, "Survivor Benefit Plan (SBP)/Reserve Component (RC) SBP Request for Deemed Election." Used by the former spouse of a member or retiree to deem an SBP election pursuant to a court order or divorce decree.

8. RELEASABILITY. UNLIMITED. This Instruction is approved for public release and is available on the Internet from the DoD Issuances Web Site at <http://www.dtic.mil/whs/directives>.

9. EFFECTIVE DATE. This Instruction is effective immediately.



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ENCLOSURE 1

REFERENCES

- (a) DoD Instruction 1332.42, "Survivor Annuity Program Administration," August 24, 2004 (hereby canceled)
- (b) DoD Directive 5124.02, "Under Secretary of Defense for Personnel and Readiness (USD(P&R))," June 23, 2008
- (c) DoD Directive 1332.27, "Survivor Annuity Programs for the Uniformed Services," June 26, 2003
- (d) Chapter 61, subchapter II of chapter 73, chapter 1223, and section 1072(2) of title 10, United States Code
- (e) DoD Directive 1332.17, "Retired Serviceman's Family Protection Plan," December 18, 1968
- (f) DoD 7000.14-R, "Financial Management Regulation (FMR)," Volume 7B, "Military Pay Policy and Procedures - Retired Pay," as amended
- (g) DoD 8910.1-M, "Department of Defense Procedures for Management of Information Requirements," June 30, 1998
- (h) DoD Instruction 7750.07, "DoD Forms Management Program," April 20, 2007
- (i) Subchapter III of chapter 83 of title 5, United States Code
- (j) Section 354 of title 37, United States Code

ENCLOSURE 2

RESPONSIBILITIES

1. DEPUTY UNDER SECRETARY OF DEFENSE FOR MILITARY PERSONNEL POLICY (DUSD(MPP)). The DUSD(MPP), under the authority, direction, and control of the Under Secretary of Defense for Personnel and Readiness (USD(P&R)), and through the Director of Military Compensation, Office of the DUSD(MPP), shall:

- a. Oversee the administration of the Program with the goal of improving Program management and achieving internal consistency among the Services.
- b. Recommend policies and establish guidance for the Secretaries of the Military Departments and the Director, Defense Finance and Accounting Service (DFAS), relating to the implementation and execution of the Program.
- c. Serve as the central point of contact for all agencies that are responsible for implementing the Program.
- d. Exercise oversight responsibility and coordinate resolution of all policy matters pertaining to the Program.
- e. Respond to persons having administrative or policy complaints about the Program.
- f. Distribute changes in policy or legislation affecting the Program to the Military Services and DFAS.
- g. Coordinate all administrative forms with the Military Services and DFAS.
- h. Identify potential legislative requirements. Review current laws and policies and propose legislative changes, as appropriate. Coordinate legislative change proposals affecting the Program and submit to the appropriate agencies for concurrence and/or comment.

2. DEPUTY UNDER SECRETARY OF DEFENSE FOR PROGRAM INTEGRATION (DUSD(PI)). The DUSD(PI), under the authority, direction, and control of the USD(P&R)) and through the DoD Office of the Actuary (hereafter referred to as the "DoD Actuary"), Office of the DUSD(PI), shall:

a. Use assumptions as to mortality and economic conditions approved by the DoD Board of Actuaries in rate development, as appropriate; periodically review and propose rates pertaining to the Program for the following categories, as appropriate.

- (1) Child only.

(2) Child add-on to spouse and/or former spouse coverage.

(3) RC-SBP add-on.

(4) Open enrollment periods.

b. Coordinate rates with the Director of Military Compensation for approval and transmit approved rates to the Services and DFAS.

c. Publish annual reports containing statistical information pertaining to the Program.

d. Prepare cost estimates for proposed legislative and policy changes.

e. Annually update and make available the SBP Decision Analysis programs.

3. ASSISTANT SECRETARY OF DEFENSE FOR RESERVE AFFAIRS (ASD(RA)). The ASD(RA), under the authority, direction, and control of the USD(P&R), shall:

a. Provide oversight for Program matters relating to Reserve Component members.

b. Provide analyses of the impact of changes in policy and legislation regarding Reserve Component aspects of the Program to the Director of Military Compensation.

c. Provide guidance, as required, to the Secretaries concerned for Program matters pertaining to Reserve Component members; staff such guidance through the Office of the Principal Deputy Under Secretary of Defense for Personnel and Readiness.

d. Review and coordinate legislative change proposals through the Military Services for comment and/or concurrence for matters that relate to the Reserve Components.

4. DIRECTOR, DFAS. The Director, DFAS, under the authority, direction, and control of the Under Secretary of Defense (Comptroller)/Chief Financial Officer, Department of Defense, and for the Secretaries of the Military Departments, shall:

a. Establish and maintain SBP coverage history in military members' retired pay accounts.

b. Compute and collect SBP premiums from members' retired pay accounts or through the direct remittance process.

c. Maintain SBP election records and process SBP election changes.

d. Compute annuities and make payments to qualified annuitants or their representatives.

e. Update and manage established annuity accounts.

f. Provide notification to a spouse or other beneficiary, as applicable, that is required as a result of a member's election or change of election after the member is in a retired status. This responsibility applies notwithstanding language elsewhere in this Instruction that states "The Secretary concerned shall notify..."

g. Correct minor administrative errors in records submitted to establish survivor and annuitant accounts.

5. SECRETARIES OF THE MILITARY DEPARTMENTS. The Secretaries of the Military Departments shall:

a. Administer the Program for their members in accordance with this Instruction and Reference (c).

b. Provide copies of Service-specific plans for administering and managing the Program to the Director of Military Compensation.

c. Notify members of Program participation details including automatic coverage, open enrollment periods, and eligibility to elect or decline coverage, as appropriate.

d. Provide counselors to inform retiring members, and their spouses when appropriate, of available Program options, as applicable, and assist retiring members with completion of all forms pertaining to enrollment.

e. Assist survivors by providing information and guidance on benefits and entitlements resulting from the deceased member's service.

f. Ensure proper disposition of enrollment and concurrence forms and transmission of data to DFAS.

g. Except as provided in paragraph 4.g. of this enclosure, be the final and conclusive authority in correcting administrative errors regarding elections made under the Program pursuant to section 1454 of subchapter II of chapter 73 of Reference (d).

6. HEADS OF THE DoD COMPONENTS. The Heads of the DoD Components shall ensure that their Components comply with the DoD policies established by Reference (c), the procedures prescribed by this Instruction, and the intent of the laws governing the Program.

ENCLOSURE 3

PROCEDURES

1. MEMBERS ELIGIBLE TO ELECT COVERAGE

a. A member who, upon retiring from active service or active duty, has a spouse, former spouse, or dependent child.

b. A Reserve Component member who has a spouse, former spouse, or dependent child upon notification of eligibility to receive retired pay, or in the case of a member who elected not to participate in RC-SBP, when the member becomes entitled to receive retired pay.

c. A member otherwise eligible according to paragraph 1.a. or 1.b. of this enclosure, except that:

(1) A member who does not have a spouse or dependent child and did not elect coverage for a former spouse (if applicable) at the time of eligibility for the Program may elect coverage for a person who has an insurable interest in the member.

(2) A member who does not have a spouse or dependent child at the time of eligibility for the Program may elect SBP or RC-SBP coverage upon notification to the Secretary concerned within the 1-year period after acquiring a spouse or dependent child. (See paragraph 7.k. of this enclosure for the effective date.)

d. A member on the Temporary Disability Retired List until the member is no longer eligible for disability retired pay.

e. Any member who qualifies during an open enrollment period according to criteria established by law.

2. MEMBERS CONSIDERED TO HAVE MAXIMUM COVERAGE

a. A member entitled to retired pay based on active service who has a spouse or dependent child is considered a participant having maximum SBP coverage, unless the member, with spousal concurrence if married, elects less-than-maximum spouse coverage, child-only coverage, or not to participate in the Program. Unless such election is made prior to the first day of entitlement to retired pay, automatic coverage for maximum spouse or spouse and child coverage shall be entered. An election under this paragraph is irrevocable, unless otherwise provided by law, if not revoked before the date on which the person first becomes entitled to retired pay.

b. A Reserve Component member who has a spouse or dependent child upon being notified of eligibility to receive retired pay pursuant to chapter 1223 of Reference (d) is considered a participant having maximum RC-SBP coverage, unless the member, with spousal concurrence if

married, elects less-than-maximum spouse coverage for an immediate annuity, child-only coverage, deferred coverage, or not to participate in the Program. An election for less-than-maximum RC-SBP coverage must be received by the member's Service within the 90-day period immediately following such notification of eligibility. An election under this paragraph is irrevocable, unless otherwise provided by law, if not revoked before the end of the 90-day period.

3. IMMEDIATE ANNUITY FOR CERTAIN SURVIVORS OF MEMBERS WHO DIE WHILE SERVING ON ACTIVE DUTY OR PERFORMING INACTIVE DUTY TRAINING

a. The Secretary concerned shall pay an immediate annuity to the survivors of:

- (1) A member who dies in the line of duty while serving on active duty.
- (2) A member who dies not in the line of duty while serving on active duty and who:
 - (a) Was eligible to receive retired pay;
 - (b) Was qualified for that pay but had not applied for or been granted that pay; or
 - (c) Had completed 20 or more years of active service but before being eligible to retire as a commissioned officer due to not having 10 years of commissioned service.
- (3) A Reserve Component member who dies from an illness or injury incurred or aggravated in the line of duty during inactive duty training performed on or after September 10, 2001.
- (4) A Reserve Component member who dies after completing the service required to receive Reserve Component retired pay but before making a Program election.

b. The order of priority in which the annuity shall be paid to survivors is:

- (1) In the case of a standard annuity:
 - (a) To the member's former spouse if the member was required under a court order or spousal agreement to provide an annuity to the former spouse upon becoming eligible to participate in the Program, or if the member has made an election to provide an annuity to the former spouse.
 - (b) To the surviving spouse.
 - (c) Notwithstanding subparagraph 3.b.(1)(b) of this enclosure and effective with respect to a death that occurs after October 7, 2001, to the surviving dependent child if the Secretary concerned, in consultation with the surviving spouse, determines that it would be more appropriate to provide the annuity to the dependent child instead of the surviving spouse.

(d) If there is no surviving spouse, or if the surviving spouse subsequently dies or loses eligibility for the annuity due to the reasons described in paragraphs 10.c. or 10.m. of this enclosure, to the dependent child.

(e) If no other annuity is payable on behalf of the member under any other provision described in subparagraph 3.b.(1). of this enclosure, effective with respect to a death that occurs on or after November 24, 2003, the Secretary concerned may pay an annuity to a natural person who has an insurable interest in the member if that person is a dependent of the member as defined in section 1072(2) of Reference (d).

(2) In the case of a Reserve Component annuity:

(a) To the member's former spouse if the member was required under a court order or spousal agreement to provide an annuity to the former spouse upon becoming eligible to participate in the Program, or if the member has made an election to provide an annuity to the former spouse.

(b) To the surviving spouse.

(c) If there is no surviving spouse or if the surviving spouse subsequently dies, to the dependent child. Exception: The dependent child is not a qualified annuitant if the surviving spouse remarries before age 55 or otherwise becomes ineligible.

c. In the case of a member to whom paragraphs 3.a.(1) or 3.a.(2) of this enclosure apply, who has no dependent children upon death, and who is survived by a spouse who is pregnant by the member at the time of the member's death, an annuity may be paid to the spouse until the child is born and begins receiving the annuity under subparagraph 3.b.(1)(c) of this enclosure. Such election shall be effective on the first day of the first month following the Secretarial determination to provide the annuity to the dependent child upon birth.

4. **NOTIFICATION TO MEMBERS.** The Secretary concerned shall notify all members who are eligible to participate in the Program. The notification shall include detailed information about the Program to ensure that the member and the spouse, if applicable, have sufficient knowledge of the Program to make an informed election. Information provided shall contain current policies and procedures, and shall be in accordance with subchapter II of chapter 73 (Reference (d) and DoD policy. Information includes but is not limited to:

- a. Pamphlets and printed material.
- b. Electronic media that is accessed through a Web-based platform.
- c. Lectures and briefings.
- d. The DoD Actuary's SBP Decision Analysis programs.

5. CONCURRENCE REQUIREMENTS AND NOTIFICATION CONCERNING ELECTIONS

a. Written spousal concurrence is required when the member elects to decline coverage or provide the spouse with less than the maximum SBP coverage available, to include electing child-only coverage, and when a member eligible for RC-SBP declines coverage or elects coverage that provides less than a maximum immediate spouse annuity. The signature of the spouse must be notarized. The requirement to have the spouse's signature notarized is not to suggest that the spouse has received additional counseling regarding the option being selected. It simply provides certification that the spouse signed the form.

b. The Secretary concerned may waive the requirement for spousal consent when the spouse's whereabouts cannot be determined or, when due to exceptional circumstances, requiring the member to seek the spouse's consent would otherwise be inappropriate. Exceptional circumstances, such as mental or physical incapacitation of the spouse, require appropriate documentation such as a physician's statement attesting to the spouse's incapacity.

c. The Secretary concerned shall notify the member's current spouse when a member who is eligible to provide an annuity to that spouse elects former spouse or former spouse and dependent child coverage.

d. The Secretary concerned shall notify the affected beneficiary when a member elects to discontinue coverage for a former spouse or insurable interest beneficiary.

e. In addition to the requirements for concurrence and/or notification listed in this paragraph, other concurrence and/or notification requirements are specified elsewhere in this Instruction.

6. ELECTIONS

a. All Elections. All Program elections must be in writing, signed, and properly witnessed if required. All elections are irrevocable unless otherwise provided by law.

b. Reserve Component Elections. In the case of a member electing a Reserve Component annuity, the member must designate either an immediate or deferred annuity. The beneficiary of a Reserve Component member who elects an immediate annuity or who dies while eligible to make such an election shall have that annuity commence the day following the death of the member. In the case of a member electing a deferred annuity, the annuity shall commence on either the day the member would have been entitled to retired pay or the day following the member's death, whichever is later.

c. Special Rules Concerning Elections

(1) In the case of a member electing SBP or RC-SBP coverage for a spouse who was not married to the member at the time the member became eligible for retired pay, the surviving

spouse must have been married to the member for at least 1 year immediately prior to the member's death or be the parent of issue by that marriage to be an eligible beneficiary.

(2) A member who did not elect child coverage for a dependent child, either at the time of becoming eligible for retired pay (if applicable) or within 1 year of acquiring the first dependent child, may not elect child coverage for subsequently acquired children unless otherwise provided by law.

(3) A member who elected insurable interest coverage under paragraph 1.c. of this enclosure may, upon death of such beneficiary, elect to cover a new beneficiary who is a natural person with an insurable interest in the member. Such an election must be made prior to the end of the 180-day period beginning on the date of the death of the previous beneficiary and requires the member to pay, if applicable, an additional amount described in subparagraph 13.h.(2) of this enclosure. Such election is also subject to paragraph 10.o. of this enclosure.

7. CHANGING AN ELECTION OR DISCONTINUING PARTICIPATION IN SBP OR RC-SBP. A member shall have an opportunity to change an election or discontinue participation as described in this paragraph; however, a member who is required to provide former spouse coverage may not change or discontinue such coverage unless the applicable requirements of paragraph 9.e. of this enclosure have been satisfied.

a. A member who is a participant in the Program for spouse or spouse and child coverage and who does not have a current eligible spouse beneficiary may, within 1 year of remarriage:

(1) Elect to retain the same level of coverage in effect prior to remarriage.

(2) Elect not to provide coverage for the new spouse. Such an election is irrevocable and requires the Secretary concerned to notify the spouse of the election. In the case of a member who had spouse and child coverage, the member shall continue to have child-only coverage and pay premiums as described in paragraph 13.f. of this enclosure.

(3) Elect to increase coverage upon remarriage if currently providing less-than-maximum coverage. Such an election requires the member to pay an amount equal to the difference between the premium that would have been payable if the higher coverage had been in effect since becoming a participant in the Program and the amount of premiums actually paid, plus interest as described in paragraph 13.l. of this enclosure. The payment shall be deposited as described in paragraph 13.k. of this enclosure. The election is effective on the first anniversary of the marriage and is contingent upon such payment being made.

b. In the case of a member not making an election within 1 year following remarriage, the new spouse shall become an eligible beneficiary in accordance with the provisions of paragraph 6.c. of this enclosure as though the member had made an election. Coverage for the new spouse shall resume at the level in effect prior to the remarriage. Costs shall accrue upon the first anniversary of the marriage. The amount of any unpaid costs shall be treated as a debt subject to collection with interest assessed in accordance with paragraph 13.l. of this enclosure.

c. Paragraph 7.a. of this enclosure does not affect any right or obligation to elect to provide an annuity to a former spouse.

d. An election under paragraph 7.a. of this enclosure not to provide coverage, to provide coverage at less than the maximum, or to provide child-only coverage requires the Secretary concerned to notify the spouse of the election and is subject to the special rules in paragraph 6.c. of this enclosure.

e. A member may elect to discontinue participation by submitting DD Form 2656-2 (described in subparagraph 7.a.(3) of the front matter of this Instruction) during the period that is more than 2 years, but less than 3 years, after the first date of entitlement to receive retired pay. The member must submit the request no earlier than the 1st day of the 25th month, and no later than the last day of the 36th month from the date of entitlement to retired pay, with spousal concurrence if applicable. (See paragraph 7.k. of this enclosure for the effective date.) A member electing to terminate coverage is not eligible for continuation in the Program; however, the member has 30 days after submitting a request to discontinue participation to revoke the request.

f. A member who has elected insurable interest coverage for someone other than a former spouse may terminate the coverage. (See paragraph 7.k. of this enclosure for the effective date.) The options available to a member who terminates insurable interest coverage are:

(1) Change the election to cover a spouse or dependent child. Such a change must be made in accordance with the time limit specified in paragraph 7.h. of this enclosure.

(2) If the reason for terminating coverage is the death of the beneficiary, the member may elect a new insurable interest beneficiary as described in subparagraph 6.c.(3) of this enclosure.

g. A member who has voluntarily elected former spouse or former spouse and child coverage may change the election to cover a spouse, dependent child, or spouse and dependent child. The election may be made at any time after the person acquires the spouse, or within 1 year of acquiring a dependent child if the member did not have a dependent child when the member first became eligible to participate in the Program. A member who is required to provide coverage for a former spouse or former spouse and dependent child may, subject to paragraph 9.e. of this enclosure, also change the election. (See paragraph 7.k. of this enclosure for the effective date.)

h. A member who does not have a spouse or dependent child when the member becomes eligible to participate and who later marries or acquires a dependent child may elect to participate in the Program by submitting a signed, written election that is received by the Secretary concerned within the 1-year period after acquiring the first spouse or dependent child. An election under this paragraph is irrevocable unless otherwise provided by law. (See paragraph 6.c. of this enclosure for special rules concerning an election under this paragraph. See paragraph 7.k. of this enclosure for the effective date.)

i. A member may discontinue participation in the Program upon notifying the Secretary concerned that the Department of Veterans Affairs (VA) has granted the member a service-connected, totally-disabled rating and the member has suffered from that disability while so rated continuously for either 10 or more years, or for at least 5 years from the member's date of last discharge or release from active duty. (See paragraph 14 of this enclosure for special provisions concerning this election.)

j. A member who is a participant in the Program who elected to waive military retired pay to qualify for or enhance a civil service retirement remains a participant unless the member elects to provide the spouse a survivor's annuity through the Civil Service Retirement System.

k. Unless specified elsewhere in this Instruction, an election shall be effective as of the first day of the first month following the month in which the Secretary concerned receives the election.

8. MEMBERS DETERMINED TO BE INCOMPETENT. The Secretary concerned may make an SBP or RC-SBP election on behalf of a member who is declared incompetent by medical officers of the Armed Force concerned, or of the Department of Veterans Affairs, or by a court of competent jurisdiction. In the event the member is later declared competent by one of these authorities, the member may elect to revoke that election within the 180-day period following a determination of competency. There shall be no refund of premiums paid for coverage during a period of declared incompetence.

9. FORMER SPOUSE PROVISIONS

a. A member who has a former spouse upon becoming eligible to participate in the Program may elect former spouse coverage. In the case of a member with more than one former spouse, the member shall designate which former spouse is the designated beneficiary. An election to provide coverage to a former spouse or former spouse and child prevents payment of an annuity to a spouse or dependent child unless the dependent child resulted from the person's marriage to that former spouse. The Secretary concerned shall notify the member's current spouse, if any, of the election.

b. A member who elected spouse coverage upon becoming eligible to participate in the Program may elect to cover a former spouse (who was not the member's former spouse at the time the member became eligible to participate in the Program) within 1 year after the date of decree of divorce, dissolution, or annulment. There is no option to change the level of coverage for an election under this paragraph. To be eligible to elect to cover a former spouse whom the member married after becoming eligible for retired pay, the member must have been married to that former spouse for at least 1 year or that former spouse must be the parent of issue by that marriage. An election under this paragraph terminates any previous Program coverage and may not be revoked unless otherwise provided by law. (See paragraph 7.k. of this enclosure for the

effective date or, in the case of a member required to make such election, paragraph 9.d. of this enclosure.)

c. A member electing former spouse coverage shall submit to the Secretary concerned DD Form 2656-1 (described in subparagraph 7.b.(2) of the front matter of this Instruction) setting forth whether the election is being made pursuant to the requirements of a court order or pursuant to a written agreement previously entered into voluntarily as part of, or incident to, a proceeding of divorce, dissolution, or annulment and, if so, whether such voluntary written agreement has been incorporated in or ratified by a court order.

d. A member described in paragraph 9.a. or 9.b. of this enclosure who is required by court order, or who executes a written agreement that is incorporated, ratified, or approved by a court order, or filed with a court in accordance with applicable State law, to elect former spouse or former spouse and child coverage, and who does not make such an election, shall be deemed to have made the required election if the Secretary concerned receives from the former spouse or the former spouse's attorney DD Form 2656-10 (described in subparagraph 7.b.(7) of the front matter of this Instruction) within 1 year from the date of the court order or filing involved. The form must be accompanied by a copy of the court order, regular on its face, or an appropriate official statement that the agreement has been filed with the court in accordance with applicable State law. The election shall be effective on the first day of the first month that begins after the date of the court order or filing, or the date the member retires, whichever is later. An election under this paragraph cannot be changed or revoked unless otherwise provided by law, as described in paragraph 9.e. of this enclosure.

e. A member who has elected former spouse or former spouse and child coverage either as required by court order or by written agreement, whether or not voluntarily, who seeks to elect coverage for a spouse, a child, or a spouse and child must furnish the evidence listed in subparagraphs 9.e.(1) or 9.e.(2) of this enclosure to the Secretary concerned.

(1) When an election was required by court order: A certified copy of the court order that is regular on its face, modifies the provisions of all previous court orders that required the original election, and certifies to the Secretary concerned that the latest court order is valid and in effect.

(2) When an election was made by written agreement and not incorporated, ratified, or approved by a court order: A written statement, signed by the former spouse beneficiary, agreeing to such a change in coverage and certifying to the Secretary concerned that the statement is current and in effect.

10. PAYMENT OF BENEFITS

a. The Secretary concerned shall pay an annuity under the Program, subject to paragraph 10.n. of this enclosure, to eligible annuitants commencing on the day immediately following the death of a member, or when the member elected an RC-SBP deferred annuity, on the day

following the death of the member or the day the member would have attained the entitlement age to begin receiving retired pay, whichever is later.

b. A spouse or former spouse who is a Program annuitant shall continue to receive an annuity while alive except in the event of remarriage before reaching age 55 as described in paragraph 10.c. of this enclosure.

c. In the event a spouse or former spouse annuitant remarries prior to age 55:

(1) If there are eligible dependent children, the annuity shall be divided among the eligible dependent children.

(2) If there are no eligible dependent children, the annuity is suspended. However, the annuity may resume if the remarriage is terminated by death, annulment, or divorce. The effective day for either the suspension or resumption of the annuity is the first day of the month in which the event occurs.

d. A spouse or former spouse who is a beneficiary under the Program of more than one spouse or former spouse annuity must choose which annuity to receive.

e. The annuity paid to a spouse under SBP or RC-SBP shall be reduced by any amount of Dependency and Indemnity Compensation (DIC) benefits paid based on the same member's service. The reduction of an annuity under this paragraph may entitle the spouse to a refund of all or part of the premium amounts paid for SBP or RC-SBP coverage. In the event the spouse loses DIC eligibility because of remarrying and the spouse is age 55 or more on the date of remarriage, the SBP or RC-SBP annuity shall be adjusted to restore any DIC reduction previously applied, subject to repayment by the spouse of any premium amounts refunded. The repayment shall be deposited as described in paragraph 13.k. of this enclosure. If the repayment is not made in a lump sum, interest shall be charged as described in paragraph 13.l. of this enclosure. The effective date of an annuity adjustment shall be the same date that a DIC entitlement terminates.

(1) Beginning on October 1, 2008, through the end of February 2016, a Special Survivor Indemnity Allowance (SSIA) shall be paid to a surviving spouse who is eligible for an SBP or RC-SBP annuity that is reduced under paragraph 10.e. of this enclosure, subject to the limits specified in subparagraph 10.e.(2) of this enclosure.

(2) The allowance described in subparagraph 10.e.(1) of this enclosure, which is limited to and may not exceed the amount of the reduction of the SBP or RC-SBP annuity, shall be paid:

(a) For months during fiscal year 2009, \$50.

(b) For months during fiscal year 2010, \$60.

(c) For months during fiscal year 2011, \$70.

(d) For months during fiscal year 2012, \$80.

(e) For months during fiscal year 2013, \$90.

(f) For months after fiscal year 2013 and before March 1, 2016, \$100.

(3) The SSIA described in subparagraph 10.e.(1) of this enclosure does not constitute an annuity, and any amounts paid are not subject to adjustment or offset.

f. An annuity shall not be payable upon the death of a participant in the Program if the member had in effect a waiver of retired pay to qualify for or enhance an annuity under the Civil Service Retirement System (subchapter III of chapter 83 of title 5, U.S.C., (Reference (i))) unless the member had declined a survivor annuity pursuant to Reference (i).

g. Except as otherwise provided by law, Program benefits are in addition to any other payments the annuitant is entitled to receive.

h. Program annuities are not subject to assignment, execution, levy, attachment, garnishment, or other legal process; however, the Secretary concerned may reduce an annuity to recover premium amounts due. In general, debts of the member may not be collected from the annuitant through reduction of the annuity, with the exception of uncollected premiums plus interest for any period of SBP coverage not presently collected, which shall be deducted from the annuity until paid.

i. The Secretary concerned may, upon a request from the member's beneficiary, declare that a participant in the Program is presumed to be dead if the member has been missing for at least 30 days and the circumstances under which the participant is missing would lead a reasonably prudent person to conclude that the participant is dead, and the member's retired pay has been suspended, or in the case of a Reserve Component member eligible for retired pay but who is not yet entitled to receive such pay, would have been suspended. When the Secretary concerned determines that the member is presumed to be dead, the beneficiary shall be eligible for the Program annuity with the effective date the same as the date the member's retired pay was suspended. If the Secretary concerned, after determining that the member is presumed to be dead, establishes that the member is alive, the annuity payments shall be terminated and any amount paid under the Program shall be repaid to the Government.

j. The Secretary concerned may pay an annuity under this Program to a person on behalf of an annuitant if a guardian or other fiduciary has been appointed for the annuitant, or when the annuitant is a minor, mentally incompetent, or otherwise legally disabled person for whom a guardian or other fiduciary has not been appointed.

k. If the annuity cannot be paid directly to the annuitant or to a third party as described in paragraph 10.j. of this enclosure, amounts shall remain unpaid and accrue until the annuitant is determined to be competent or until a third party has been properly appointed to receive the annuity on behalf of the annuitant.

l. In the event an amount under the Program is paid erroneously, the Secretary concerned may recover the amount by reducing later payments to the member or annuitant. Recovery may be waived if the Secretary concerned determines there has been no fault by the person to whom the amount was erroneously paid and the recovery of such amount would be contrary to the purpose of the Program or against equity and good conscience.

m. No payments shall be made to a beneficiary when the Secretary concerned determines that the beneficiary contributed to the member's death and the facts show felonious intent on the beneficiary's part.

n. If a member retires on or after November 24, 2003, under a provision of chapter 61 of Reference (d) and elects insurable interest coverage in accordance with paragraph 1.c. of this enclosure, the election is invalidated if the member dies within 1 year after being retired and the cause of death is related to the disability for which retired, unless the coverage was elected for a person described in section 1072(2) of Reference (d). If the election is invalidated, any premiums deducted under paragraph 13 of this enclosure shall be paid to the person to whom the annuity would have been paid.

o. If a member elects insurable interest coverage under subparagraph 6.c.(3) of this enclosure, and dies prior to the 2-year period beginning on the effective date of the election, the election is invalidated and any premiums deducted under subparagraph 13.h.(2) of this enclosure shall be paid to the person to whom the annuity would have been paid.

11. AMOUNT OF ANNUITY

a. The amount of an annuity for an annuitant who is a spouse, former spouse, or dependent child when becoming entitled to the annuity is, in the case of a member providing:

(1) A standard annuity for a spouse or former spouse or an annuity divided among eligible dependent children: 55 percent of the base amount.

(2) Except for an annuity provided by reason of conditions described in subparagraphs 3.a.(3) or 3.a.(4) of this enclosure, a Reserve Component annuity for a spouse, former spouse, or an annuity divided among eligible dependent children: 55 percent of the difference between the base amount and the cost of the Reserve Component add-on premium.

(3) An annuity by reason of conditions described in subparagraph 3.a.(1) of this enclosure: 55 percent of the retired pay the member was or would have been entitled to on the day the member died, computed as if the member were retired with a total (100 percent) disability.

(4) An annuity by reason of conditions described in subparagraph 3.a.(2), 3.a.(3), or 3.a.(4) of this enclosure: 55 percent of the retired pay the member was or would have been entitled to on the day the member died, computed based on years of service creditable for computation of retired pay.

b. The amount of an annuity for an insurable interest beneficiary regardless of age is, in the case of a member providing:

(1) A standard annuity for an insurable interest: 55 percent of the difference between the base amount and the premium reduction as described in paragraph 13.h. of this enclosure for insurable interest coverage.

(2) A Reserve Component annuity for an insurable interest: 55 percent of the difference between the member's retired pay and the sum of the premium reduction for insurable interest coverage, and the cost of the Reserve Component add-on premium as determined by the DoD Actuary using assumptions (as to mortality and economic conditions) approved by the DoD Board of Actuaries and approved by the Director of Military Compensation in accordance with guidelines prescribed in section 1452 of subchapter II of chapter 73 of Reference (d).

c. The base amount for a Reserve Component annuity when the member providing such an annuity dies before becoming entitled to begin receiving retired pay shall be calculated using the appropriate computation as determined by the member's or former member's date of initial entry into military service (DIEMS) at the time the member:

(1) Dies, in the case of a member providing an immediate annuity.

(2) Would have been entitled to begin receiving retired pay, in the case of a member providing a deferred annuity.

d. A member who has a DIEMS after July 31, 1986, and who elected to receive a bonus pursuant to section 354 of title 37, U.S.C., (Reference (j)) (known and hereafter referred to as a "REDUX member") shall, at the time of Program election, have the maximum base amount computed as if that member had not been a REDUX member.

e. An annuity based on conditions described in subparagraph 3.a.(1) of this enclosure shall be computed using subparagraph 11.a.(3) of this enclosure regardless of any previous elections made by the member.

12. ADJUSTMENTS TO BASE AMOUNT AND ANNUITIES

a. Base Amount Adjustments

(1) The base amount selected by a member when electing Program coverage shall increase at the same time and by the same percentage as the retired pay of that member.

(2) The base amount for a participant in the Program who is a REDUX member shall be adjusted at age 62 to add the difference between cost of living adjustment (COLA) increases that would have been applied had the member not been a REDUX member, and the actual COLA

adjustments applied. This adjustment shall be effective on the first day of the first month after the member turns age 62.

(3) The SBP base amount for a participant in the Program who retired from active service pursuant to chapter 1 of Volume 7B of Reference (f) (known as and hereafter referred to as “Temporary Early Retirement Authority”), and who elected SBP coverage based on full retired pay, shall be recomputed at age 62 to reflect any credit for qualifying public and community service. This adjustment shall be effective on the first day of the first month after the member turns age 62.

b. Annuity Amount Adjustments

(1) An annuity shall increase at the same time and by the same percentage that the retired pay of the member would have increased had the member been alive and eligible for the increase. Such an increase shall be applied to the full amount of the annuity and prior to any DIC offset reductions.

(2) Whenever the annuity is increased, any portion less than a whole dollar amount shall be discarded.

(3) The amount provided to an annuitant by a REDUX member shall, upon the date that the member would have become 62 years old, be recomputed to equal the amount it would have been had full COLA increases been applicable to the member and annuitant. This adjustment shall be effective on the first day of the first month after the member would have become age 62. After such re-computation, the provisions of subparagraph 12.b.(1) of this enclosure apply with respect to further annuity increases.

(4) The SBP annuity paid to an annuitant based on a member retired under Temporary Early Retirement Authority, who elected coverage based on full retired pay, shall be recomputed when the member would have been age 62. The total years of active service shall be treated as including any years (or fractions of a year) of qualifying public or community service as of the date the member became entitled to retired pay. This adjustment shall be effective on the first day of the first month after the member would have been age 62.

13. REDUCTIONS IN RETIRED PAY (PREMIUMS). Members electing to provide Program coverage shall pay a premium for such coverage. All premiums not specified in this paragraph are calculated by the DoD Actuary using assumptions (as to mortality and economic conditions) approved by the DoD Board of Actuaries and the Director of Military Compensation.

a. There are two methods for calculating the reduction in retired pay for a member electing SBP coverage for a spouse or former spouse. (See paragraph 13.b. of this enclosure to determine which method applies.) These methods are:

(1) An amount equal to 2.5 percent of the lesser of the threshold amount (\$701 in 2009), adjusted as described in paragraph 13.e. of this enclosure, or the base amount plus 10 percent of any base amount in excess of the threshold amount.

(2) An amount equal to 6.5 percent of the base amount.

b. The retired pay of a member participating in SBP or RC-SBP who is providing an annuity for a spouse or former spouse, shall, in months where there is an eligible beneficiary, be reduced by:

(1) The lesser amount of subparagraph 13.a.(1) or 13.a.(2) of this enclosure, in the case of a member providing a standard annuity who:

(a) Has a DIEMS before March 1, 1990;

(b) Is entitled to disability retired pay based on chapter 61 of Reference (d); or

(c) Is entitled to retired pay pursuant to chapter 1223 of Reference (d).

(2) The amount calculated in subparagraph 13.a.(2) of this enclosure for a member who has a DIEMS on or after March 1, 1990, in the case of a member providing a standard annuity other than a member who is entitled to retired pay pursuant to chapters 61 or 1223 of Reference (d).

(3) An amount equal to the lesser of subparagraph 13.a.(1) or 13.a.(2) of this enclosure plus an amount for the Reserve Component add-on premium, in the case of a member providing a Reserve Component annuity.

c. A member providing coverage in paragraph 13.b. of this enclosure who also elects coverage for a dependent child shall, in months where there is an eligible dependent child beneficiary, have the coverage premium increased as a result of the additional coverage.

d. The Reserve Component add-on premium described in subparagraph 13.b.(3) of this enclosure shall be charged for all months even though the member elects to discontinue coverage under paragraph 7.e.:

(1) In the case of spouse, former spouse, or insurable interest coverage, until the earlier of:

(a) The first day of the month in which a spouse or former spouse beneficiary is no longer eligible due to death, divorce, annulment, or remarriage before age 55, as applicable.

(b) The first day of the month in which the insurable interest dies.

(c) The first day of the month following the month in which the member's retired pay has been reduced for a total of 360 months.

(2) In the case of child-only coverage, until the member's retired pay has been reduced for a total of 360 months.

e. The threshold amount described in subparagraph 13.a.(1) of this enclosure is adjusted as follows.

(1) Increased at the same time and by the same percentage as the average increase in basic pay effective on or after October 1, 1985. This applies to a member whose retired pay is computed on the basic pay rate in effect on or after the effective date of such increase in basic pay.

(2) In addition to the increase in subparagraph 13.d.(1) of this enclosure, an increase at the same time and by the same percentage as a COLA applied to the member's retired pay on or after October 1, 1985, if the member first participates in the Program after the effective date of the COLA increase and after the effective date of the basic pay rates on which the member's retired pay is computed.

f. Members electing child-only Program coverage shall have their retired pay reduced:

(1) In the case of a member providing a standard annuity, in months where there is an eligible child beneficiary.

(2) In the case of a member providing a Reserve Component annuity, in months where there is an eligible child beneficiary (SBP premium) after the member becomes entitled to begin receiving retired pay, and for all months, even if there is no child beneficiary, based upon any period that child-only coverage was provided before becoming entitled to receive retired pay (Reserve Component add-on premium).

g. The amount of premium reduction in the member's retired pay for spouse, former spouse, or child-only coverage shall increase at the same time and by the same percentage as the retired pay of that member.

h. A member may elect to cover an insurable interest beneficiary. The reduction in the member's retired pay shall continue during the member's lifetime until the beneficiary's death, until coverage is terminated, or until the member changes the election in favor of covering a spouse or dependent child. In the case of a REDUX member, the full base amount described in paragraph 11.d. of this enclosure shall apply.

(1) The member's retired pay shall be reduced, subject to a 40 percent maximum reduction:

(a) In the case of a standard annuity, 10 percent of the member's retired pay plus 5 percent for each full 5 years the beneficiary is younger than the member.

(b) In the case of a Reserve Component annuity, an amount prescribed by the DoD Actuary and approved by the Director of Military Compensation.

(2) In addition to the reduction in the member's retired pay described in subparagraph 13.h.(1) of this enclosure, a member who elects a new insurable interest beneficiary under subparagraph 7.f.(2) of this enclosure must also pay an amount equal to the difference in the amount of the reduction in the member's retired pay for the previous beneficiary and the reduction in retired pay that would have been made had the previous beneficiary not died and been a covered beneficiary through the date of the new election. Such amount shall be computed as if the previous beneficiary had been the same number of years younger than the member (if any) as the new beneficiary.

i. In the case of a REDUX member whose retired pay is recomputed at age 62, the premium reduction for Program coverage shall be adjusted based upon such re-computation and shall be effective on the effective date of the re-computation.

j. A member who is a Program participant is required to deposit funds with the U.S. Treasury to pay for coverage during any month in which the retired pay entitlement is less than the amount needed to pay for that month's coverage. This requirement does not apply when the member is serving on active duty for 30 or more days, or has elected to waive military retired pay to qualify for or enhance a civil service retirement and has selected a surviving spouse annuity under that system.

k. Unless otherwise specified, the disposition of payments made under the Program as described in this Instruction shall be:

(1) A payment due the Department of Defense shall be deposited into the DoD Military Retirement Fund.

(2) Payments not covered in subparagraph 13.k.(1) of this enclosure shall be deposited in the U.S. Treasury as a miscellaneous receipt.

l. A member or annuitant required to repay the Program when interest is due shall pay the rate of interest used for the valuation of the Military Retirement Fund.

m. Program premiums shall only be refunded as described in paragraphs 10.e. and 14.d. of this enclosure or when a premium deduction is made due to an administrative error.

n. Effective October 1, 2008, premiums for coverage shall not be required for a participant in the Program after the later of:

(1) The 360th month for which the participant has paid premiums.

(2) The month during which the participant attains 70 years of age.

14. TOTALLY DISABLED MEMBERS. This paragraph applies to a member who has spouse, child, or spouse and child coverage; is rated totally disabled by the VA; and elected to discontinue participation as described in paragraph 7.i. of this enclosure.

a. An election to discontinue spouse, child, or spouse and child coverage under paragraph 7.i. of this enclosure shall be in writing and is subject to written consent of the beneficiary or beneficiaries.

b. DFAS, acting on behalf of the Secretary concerned, shall furnish the member a written statement of the advantages of participating and the possible disadvantages of discontinuing participation.

c. Premiums and coverage for a spouse, child, or spouse and child end on the effective date. (See paragraph 7.k. of this enclosure, for the effective date.) A member's election to discontinue participation pursuant to paragraph 7.i. of this enclosure shall not become effective, notwithstanding the provisions of paragraph 7.k. of this enclosure, until the Secretary concerned has received the written consent of the beneficiary or beneficiaries required by paragraph 14.a. of this enclosure. The member may revoke the request to discontinue participation within the 30-day period following submitting the request to the Secretary concerned.

d. Upon the death of the member, any premiums paid for spouse coverage under the Program shall be refunded to the member's surviving spouse.

e. In the case of the VA changing the rating of the member to less than totally disabled, the member may elect to resume coverage within the 1-year period immediately following the VA notifying the member of such a change. Coverage is limited to the type and amount of Program coverage initially elected unless another provision of this Instruction allows for changes. Premiums begin on the effective date. (See paragraph 7.k. of this enclosure for the effective date.)

GLOSSARY

DEFINITIONS

These terms and their definitions are for the purposes of this Instruction.

add-on. A premium amount that is charged in addition to the premium normally charged for the given coverage. For example, when used in conjunction with “child” (child add-on), add-on means the additional premium for child coverage when spouse and child or former spouse and child coverage is elected. When used in conjunction with “Reserve Component” (Reserve Component add-on), add-on is the premium, in addition to the basic SBP premium, for coverage during the period before the Reserve Component member was entitled to receive retired pay.

DIEMS. The earliest date of enlistment, induction, or appointment in a regular or Reserve Component of a Uniformed Service as a commissioned officer, warrant officer, or enlisted member. This date is rarely the same as a basic active service date and is often earlier than a pay entry basic date.

natural person who has insurable interest in a member. Any person who has a reasonable and lawful expectation of financial benefit from the continued life of the participating member, or any individual having a reasonable and lawful basis founded upon the relation of parties to each other, either financial or of blood or affinity, to expect some benefit or advantage from the continuance of the life of the retired member. If the election is for a person who is more nearly related than a cousin, no proof of financial expectation is required. If the election is for a beneficiary who is a cousin or less closely related than a cousin, proof of financial benefit from the continued life of the retiree is required.

Secretary concerned. The Secretary of the Army, the Secretary of the Navy, the Secretary of the Air Force, and the Secretary of Homeland Security, as appropriate to the Service of the member.

threshold amount. An amount used in the premium computation of a member electing SBP coverage with respect to members with a DIEMS prior to March 1, 1990; members receiving a disability retirement (regardless of DIEMS); and members receiving Reserve Component retired pay (regardless of DIEMS). This amount is increased annually at the same rate as the average increase in basic pay.