

Survivor Benefit Plan (SBP) Payment Correction Detailed Fact Sheet for OASD/PA, Casualty Officers and DFAS Care Center Designated Phone Line Reps

A recent Defense Finance and Accounting Service (DFAS) audit of survivor benefit payments to the survivors of deceased Reserve Component members between Nov. 2001 and Jan. 2012 revealed that several family members were receiving incorrect annuity payments under the Survivor Benefit Plan (SBP).

- In all of these cases, the administrative documents used to initially establish the annuity did not clearly reflect the reservists' duty status as "Inactive Duty Training." Consequently, the annuity payments were computed using an incorrect method (processed as active duty deaths).
- The laws and regulations for SBP differ for active duty deaths and inactive duty deaths.
- These reservists died during inactive duty training. As a result, their survivors should have received either a smaller amount or no annuity based upon the reservists' duty status and years of service with the Reserve Component.
- More specifically:
 - Ninety-five family members were overpaid (72 Army, 15 Air Force and 8 Navy).
 - The total overpayment from Nov. 2001 through Jan. 2012 is approximately \$3.5 million.
 - The largest overpayment is more than \$224,000 to an Army spouse.
 - The average overpayment is about \$34,000.

There are a number of differences between an SBP annuity payable for the death of a member on active duty and the annuity payable for death of a member on inactive duty training. The three key differences that will negatively impact these customers are detailed below.

- **Methods of computation.** The annuity payable for active duty and inactive duty deaths is 55% of the member's retired pay amount *if* the member had retired. However, for members who die, the calculation of the retired pay amount (the basis for the SBP benefit) uses a different formula, depending on whether the member was on an "Active Duty" status or on an "Inactive Duty for Training" status at the time of his/her death. For more information, please refer to the two formulas below or click on <http://www.dfas.mil/retiredmilitary/plan/estimate.html>
 - Active Duty Retired Pay Calculation: High Average Base Amount x 75%= Retired Pay (The high average base amount is the average pay during the three years the member was earning his/her highest pay).
 - Inactive Duty Training Retired Pay Calculation: First, take the: Total Reserve Points / 360 =Years of Service. Second, take the: Years of Service x 2.5 %= Service Percent Multiplier. Third, use the: Service Percent Multiplier x High Average Base = Retired Pay. (NOTE: Inactive duty for training is defined in Question 10 below. Reserve Points are defined in Question 13 below.)
- **Children treated differently between active duty and inactive duty deaths.**
 - When a member dies on active duty, children are eligible beneficiaries, even if the member had a surviving spouse at his/her death.
 - When a member dies on inactive duty training, children are not eligible beneficiaries if there is an eligible spouse. Thus, most of the children will lose their payments.

- However, in these cases, a spouse may be eligible to receive the SBP annuity (subject to the DIC offset discussed below). These payments will be less than the amount their children were receiving. The eligible spouses will need to apply for the annuity payments. DFAS will expedite any such applications received.
- If a spouse is currently in receipt of Dependency and Indemnity Compensation (DIC), which is a benefit paid by the Department of Veterans Affairs, the spouse's annuity is subject to offset by the DIC amount. If the DIC payment exceeds the annuity amount, no annuity can be paid.
- **Spouses treated differently between active duty and inactive duty deaths**
 - When a member dies on active duty, a spouse may receive the Special Survivor Indemnity Allowance (SSIA) if the spouse's annuity is subject to offset for DIC payments received.
 - SSIA is an entitlement paid to spouses whose SBP annuities are either fully or partially offset by DIC.
 - Currently, in 2012, the monthly SSIA is \$80; however, the entitlement is limited to the amount of the SBP entitlement. For example, if the SBP entitlement is only \$30, then the SSIA payment is limited to \$30.
 - When a member dies on inactive duty, SSIA is not payable to a spouse, even if the spouse's annuity is subject to offset for DIC payments received. Thus, there are approximately 35 spouses who will also lose this payment.

Payments adjusted immediately

By law, DFAS cannot continue to make overpayments. Therefore, future SBP payments will be adjusted immediately. The next SBP annuity payment sent to annuitants on Feb. 1, 2012, will be issued in the correct lowered amounts or stopped.

Two examples of the effect on the identified annuitants include:

- One spouse has been receiving an SBP annuity of \$3,381 per month. After the correction is made, she will receive \$1,036 monthly.
- One child has been receiving an SBP annuity of \$1,400 per month; he will lose his payments entirely.

Debt Waivers

Under the law, these family members would normally owe a debt to the government for the amount overpaid. However, because it is clear that their actions did not cause the error and they were completely unaware of the overpayments, repayment of the debts has been waived under the provisions of 10 U.S.C. 1453.

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Survivor Benefit Plan (SBP)

Payment Correction Qs And As

1. What exactly happened?

From 2001 forward (date of overpayments will vary by annuitant as payments begin after a member's death), the Defense Finance and Accounting Service (DFAS) has incorrectly paid Survivor Benefit Plan (SBP) annuities to 95 family members of deceased Reserve members from multiple military Services. Because these reservists died on inactive duty, the annuities for their survivors should have been computed under a different method (statutory provision), which establishes a smaller benefit with stricter eligibility rules.

2. How did this happen?

The paperwork used to establish the annuity payments did not clearly reflect that the member was on inactive duty at the time of death. The accounts were processed as active duty deaths, which resulted in incorrect annuity payments.

3. Who does this affect?

The error affects 95 spouses and children of Army, Navy, and Air Force Reservists and National Guard members who died while on inactive duty for training status between Nov. 2001 and Sep. 2011. Of the 95 family members, 72 were Army family members, 15 were Air Force and 8 were Navy.

4. How does this affect the family members who received erroneous payments?

By law, DFAS cannot knowingly continue to make erroneous payments. Therefore, DFAS must correct the annuity amounts beginning with the next scheduled payment on Feb. 1, 2012. Almost all of the children's payments will stop. Most of the spouses will receive a substantially smaller payment.

5. Why will the children's payments stop?

Under the SBP, for active duty deaths, children are eligible beneficiaries; however, for inactive duty deaths, children are not eligible beneficiaries if there is an eligible spouse. Thus, most of the children will lose their payments. However, in these cases, the eligible spouse of the deceased military member may begin receiving those payments instead, but these payments will be less than the annuity amount that the children received. This situation applies to 18 Army spouses, 4 Air Force spouses, and 1 Navy spouse. The eligible spouses will need to apply for the annuity payments; a separate notification is being provided to them.

6. Why weren't the annuitants notified sooner about the upcoming change in their pay?

DFAS has made every effort to ensure that the annuitants could be notified as soon as possible. In these cases, DFAS had to do significant review and coordination with the Services and then calculate the correct amounts to be paid, as well as determine the amount of the overpayment. Once all of this work was completed in January 2012, DFAS was legally obligated to correct the overpayments.

7. Will the families be responsible for the amount they were overpaid?

No. Although these family members would normally owe a debt to the government for the amount overpaid, the families will not be held financially responsible because the SBP debts have been waived. In addition, the SSIA debts will also be waived.

8. What was the total amount of the waived debt to the government?

Approximately \$3.5 million.

9. Why has the debt been waived?

The families who received the overpayments shared no fault and could not reasonably have known they were being overpaid.

10. What does “inactive duty for training (IDT)” mean?

The term “inactive duty for training” means:

- a. duty (other than full-time duty) prescribed or authorized for Reserves (including commissioned officers of the Reserve Corps of the Public Health Service) which duty is scheduled in advance by competent authority to begin at a specific time and place; and
- b. in the case of a member of the National Guard or Air National Guard of any State, this term means duty (other than full-time duty) which is scheduled in advance by competent authority to begin at a specific time and place under sections 316, 502, 503, 504, or 505 of title 32, United States Code.

11. Is there any way to update a member’s records to reflect active duty status at the time of death?

If the family believes that the member was on active duty at the time of his death, this would be a Service specific personnel issue that should be reviewed to confirm the facts. If the Service confirms that a member was on active duty at the time of his death, DFAS would make the appropriate adjustments to the survivors’ benefits once notified by the Service.

12. Why are the spouse payments smaller if a member dies on inactive duty?

The law sets forth different methods to determine what the members’ retired pay would have been if he/she had earned military retirement. Both annuities are 55% of the member’s retired pay amount, and in both instances, the members’ high average base amount (average pay during the three years the member was earning his/her highest pay) is used to compute the annuity. Once the high average base amount is determined for an active duty death, that amount is multiplied by 75 percent. For inactive duty deaths, the high average base amount is multiplied by a percentage number, which is determined, in part, by using the members’ Reserve points. The percentage number used will vary because it is based upon a member’s Reserve points (in all of these cases, the percentage number will be less than 75 percent). This results in a smaller annuity payment. Both benefits are offset by Dependency and Indemnity Compensation (DIC), a Department of Veterans Affairs benefit. If the spouse’s corrected annuity payment is less than the DIC payment he/she receives, then his/her SBP payments will be eliminated.

13. Are there any additional overpayments?

Yes. A Special Survivor Indemnity Allowance (SSIA) is an entitlement paid to a spouse if the spouse’s annuity is subject to offset for receipt of DIC. The SSIA is not payable for inactive duty deaths.

14. What are reserve points?

When a Reserve or National Guard member performs duty, the time spent performing that duty is reflected in their military records as “points.” Reserve and National Guard members earn one point for each day of active duty or each four-hour period of inactive duty. They can accumulate up to 365 points per year. These points are used to calculate a member’s years of service toward retirement.

15. Who established the eligibility and computation rules for SBP for active duty and inactive duty deaths?

These rules have their basis in law.

--Public Law 107-107 Sec 642 (Dec. 28, 2001) authorized SBP annuities for spouses of service members who died in the line of duty while on Active Duty and were not yet eligible for retirement.

--Public Law 108-136 (Nov. 24, 2003) added Child SBP for Active Duty deaths and authorized SBP annuities (different computation method) for members who died while in an Inactive Duty for Training status.

16. When and how was this error discovered?

DFAS received a Congressional inquiry in September 2011 for potential underpayment of SBP, which resulted in a review of the account in question. During that review, DFAS discovered the paperwork establishing the annuity was incorrectly coded into the annuity pay system. This led to a complete service-

wide audit of annuitant cases established between November 2001 and September 2011, which revealed the 61 erroneous cases affecting the 95 surviving family members. DFAS then analyzed each case to confirm the payments were actually wrong and calculated the correct amounts. The analysis was completed in January 2012.

17. Have you reviewed all SBP and RC-SBP claims that have been submitted since 2001? Is it possible that other cases like this exist?

All claims have been reviewed. During that review, DFAS discovered the paperwork establishing the annuity was incorrectly coded. This led to a complete audit of annuitant cases established between November 2001 and September 2011, which revealed the 61 erroneous cases affecting the 95 surviving family members. The DFAS then analyzed each case to confirm the payments were actually wrong and calculated the amounts. The analysis was completed in January 2012.

18. Doesn't DFAS have a process in place to routinely audit/check that these claims are being paid accurately? Shouldn't this have been caught long before this?

SBP for inactive duty deaths was not authorized in the law until October 2003 (with a retroactive effective date back to September 2001). Prior to enactment of that law, annuities were not payable for deaths occurring on inactive duty. Based upon the guidance provided at the time these claims were processed, the accounts appeared to be correct.

19. What are DFAS and the Armed Forces doing to ensure this does not happen again?

To ensure this does not happen again, the Services will train their staff on the appropriate process for counseling and submitting claims for the families of military members who die on inactive duty for training status. In addition, DFAS and the services are working together to more precisely identify the duty status of each deceased Service member on applicable casualty documents submitted to DFAS by the Services. DFAS has developed a template to standardize the data received from the Services to ensure accurate computation and account establishment. This template has been provided to the Services and is required as part of a claim package sent to DFAS upon the death of a member in IDT status.