DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 9

RIN 2900–AO74

Servicemembers’ Group Life Insurance—Veterans’ Group Life Insurance Regulation Update—ABO, VGLI Application, SGLI 2-Year Disability Extension

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document amends the Department of Veterans Affairs (VA) insurance regulations concerning Servicemembers’ Group Life Insurance (SGLI) to reflect the statutory provisions of the Veterans’ Benefits Act of 2010, which became law on October 13, 2010, and resulted in the need for amendments to change the SGLI Disability Extension period from 1 year to 2 years in duration; provide SGLI Traumatic Injury Protection (TSGLI) retroactive coverage effective from October 7, 2001, for all qualifying injuries regardless of the geographic location and military operation in which the injuries were incurred; and remove the SGLI and Veterans’ Group Life Insurance (VGLI) Accelerated Benefits Option (ABO) discount rate. This rule also clarifies that “initial premium” refers to “initial Veterans’ Group Life Insurance premium,” updates the current address of the Office of Servicemembers’ Group Life Insurance (OSGLI), managed by Prudential Insurance Company of America, to reflect where the ABO application is mailed for processing, and corrects the OSGLI phone number. Finally, this rule removes the ABO application form from the regulation, and it corrects and clarifies language concerning the VGLI application period that was inadvertently incorrectly modified in a prior amendment of the regulations.

DATES: Effective Date: This rule is effective July 31, 2014.

Applicability Dates: In accordance with the statutory provisions, the applicability dates for the amendments in this final rule are as follows: Under Public Law 111–275, 124 Stat. 2864, 2879 (the Act), enacted on October 13, 2010, contains several provisions that directly affect the payment of and eligibility for certain SGLI related benefits. Therefore, VA is amending its regulations to reflect those statutory changes. VA is also making technical amendments to clarify, in current § 9.2(b)(2), that “initial premium” refers to “initial Veterans’ Group Life Insurance premium,” to correct and clarify language concerning the VGLI application period, to update an address and phone number, and to remove a VA form.

38 CFR 9.2 and 9.5

Section 402 of the Act amended 38 U.S.C. 1968(a) by extending the duration of the SGLI disability extension period to 2 years from the date of an insured servicemember’s separation or release from duty. Prior to enactment of the Act, the 2-year disability extension period was set to expire on September 30, 2011, thereafter reducing the length of the SGLI disability extension to 18 months for servicemembers discharged from duty on or after October 1, 2011. This final rule amends the first sentence of 38 CFR 9.2(b)2 by deleting the term “1-year period” and replacing it with the term “2-year period” to reflect current law. This rule also amends the last sentence of 38 CFR 9.2(b)(2) to clarify that a servicemember insured under the SGLI disability extension has 1 year following “termination of SGLI coverage” to apply for VGLI coverage and not 1 year from the “termination of duty” as the last sentence of § 9.2(b)(2) currently reads. Under § 9.2(b)(2), for any servicemembers who are unemployable due to being totally disabled at the time of their discharge from service or release from assignment with eligibility for the SGLI disability extension, their VGLI coverage eligibility period begins the day following the end of the SGLI 2-year disability extension period or the day following the end of the total disability, whichever is earlier. The current language came about as a result of a prior regulatory submission that incorrectly substituted the word “duty” for the phrase “SGLI coverage” at the end of the last sentence of § 9.2(b)(2). In addition, in the last sentence of § 9.2(b)(2), we clarify that the “initial premium” referred to is the initial VGLI premium.

This rule also amends 38 CFR 9.5(d) to change the language that states “1 year” following termination of duty to “2 years” following termination of duty to reflect the fact that the SGLI disability extension period referenced in this paragraph is now 2 years in duration.

38 CFR 9.14

Title 38, United States Code, section 1980, provides for the payment of an ABO under the SGLI and VGLI programs. ABO is a provision of the SGLI and VGLI programs that allows payment to a terminally ill insured, in the amount requested by the insured, up to 50 percent of his or her insurance coverage. Formerly, 38 U.S.C. 1980(b)(1) required that all ABO payments be reduced by an interest deduction, which is the amount that has been actuarially determined to be the amount of interest lost due to the early payment of the insurance proceeds. Section 405 of the Act eliminated the interest reduction for ABO payments. VA is amending the implementing regulation, 38 CFR 9.14(e), to reflect that change. The phrase “minus the interest reduction” and all references to the ABO interest rate reduction are being deleted wherever they appear in 38 CFR 9.14(e).

We are also amending 38 CFR 9.14 by deleting the reproduction of the ABO claim form from the text of 38 CFR 9.14(f)(2). As a matter of policy, VA no longer includes forms in its regulations. This is because routine minor changes are often made to forms independent of the rulemaking process. Requiring the use of the rulemaking process to make minor, non-substantive changes to widely distributed forms is costly in money, time, and the delivery of benefits and serves no useful purpose. Furthermore, the most recent version of any required insurance form can be found on the VA Insurance Web site (www.insurance.va.gov). The words “entitled ‘Claim for Accelerated Benefits’” are being removed from § 9.14(f) as the current ABO claim form title is different and may be subject to change in the future.

Finally, 38 CFR 9.14(f) is being amended to show that the current address for the Office of Servicemembers’ Group Life Insurance is 80 Livingston Avenue, Roseland, New Jersey 07068–1733, and the correct phone number for the office is 1–800–44297.
38 CFR 9.20


In 2006, Congress provided a retroactive period of eligibility for traumatic injury protection for a member of the uniformed services who sustained a traumatic injury during the period beginning on October 7, 2001, and ending at the close of November 30, 2005, “if, as determined by the Secretary concerned, that loss was a direct result of a traumatic injury incurred in the theater of operations for Operation Enduring Freedom or Operation Iraqi Freedom.” Veterans’ Housing Opportunity and Benefits Improvement Act of 2006, Sec. 501(b), Public Law 109–233, 120 Stat. 411 (2006).

In 2010, Congress amended section 1980A note to delete the phrase “if, as determined by the Secretary concerned, that loss was a direct result of a traumatic injury incurred in the theater of operations for Operation Enduring Freedom or Operation Iraqi Freedom.” Sec. 408, Public Law 111–275, 124 Stat. 24038 (2010).

In 2014, Congress provided a retroactive period of eligibility for traumatic injury protection for a member of the uniformed services who sustained a traumatic injury during the period beginning on October 7, 2001, and ending at the close of November 30, 2005, “if, as determined by the Secretary concerned, that loss was a direct result of a traumatic injury incurred in the theater of operations for Operation Enduring Freedom or Operation Iraqi Freedom.” Veterans’ Housing Opportunity and Benefits Improvement Act of 2014, Sec. 501(b), Public Law 113–188, 128 Stat. 2149 (2014).

Changes made by this final rule merely reflect current statutory provisions and miscellaneous technical amendments. Therefore, in accordance with 5 U.S.C. 553(b)(B) and (d)(3), the Secretary of Veterans Affairs concludes that there is good cause to dispense with public notice and opportunity to comment on this rule and good cause to publish this rule with an immediate effective date. The regulatory changes made by this rule pursuant to the Act reflect changes in statute that VA is adopting, without change, into VA’s regulations. The regulatory changes do not involve interpretation of any statutory provision. The remaining changes are technical and non-substantive. Consequently, opportunity for public comment is unnecessary. Due to the above considerations, VA is issuing this rule as a final rule, effective immediately upon publication.

Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 12866 (Regulatory Planning and Review) defines a “significant regulatory action” requiring review by the Office of Management and Budget (OMB), unless OMB waives such review, as “any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President’s priorities, or the principles set forth in this Executive Order.” The economic, interagency, budgetary, legal, and policy implications of this regulatory action have been examined, and it has been determined not to be a significant regulatory action under Executive Order 12866. VA’s impact analysis can be found as a supporting document at http://www.regulations.gov, usually within 48 hours after the rulemaking document is published. Additionally, a copy of the rulemaking and its impact analysis are available on VA’s Web site at http://www1.va.gov/orpm/, by following the link for “VA Regulations Published.”

Regulatory Flexibility Act

The Secretary hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This final rule will directly affect only individuals and will not directly affect small entities. Therefore, pursuant to 5 U.S.C. 605(b), this final rule is exempt from the final regulatory flexibility analysis requirements of section 604.

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in an expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year. This final rule will have no such effect on State, local, and tribal governments or on the private sector.

Paperwork Reduction Act

This final rule contains no provisions constituting a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521).

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance number and title for the program affected by this document is 64.103, Life Insurance for Veterans.

Signing Authority

The Acting Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Jose D. Riojas, Chief of Staff, approved this document on July 24, 2014 for publication.

List of Subjects in 38 CFR Part 9

Life insurance, Military personnel, Veterans.
§ 9.20 [Amended]

5. Amend § 9.20 by:

a. In paragraph (b)(1) introductory text, removing “occurring—”, and adding in its place “occurring on or after October 7, 2001.”.

b. Removing paragraphs (b)(1)(i), (b)(1)(ii), (b)(2)(i), and (b)(2)(ii).

c. Redesignating paragraph (b)(3) as paragraph (b)(2).

d. In paragraph (d)(1), removing “December 1, 2005, and your scheduled loss was a direct result of injuries incurred in Operation Enduring Freedom and Operation Iraqi Freedom.”


* * * * *

(e) How much can you receive as an Accelerated Benefit? You can receive as an Accelerated Benefit the amount you request up to a maximum of 50% of the face value of your insurance coverage.

(I) How do you apply for an Accelerated Benefit? (1) You can obtain an application form by writing the Office of Servicemembers’ Group Life Insurance, 80 Livingston Avenue, Roseland, New Jersey 07068–1733.

(2) As stated on the application form, you will be required to complete part of the application form and your physician will be required to complete part of the application form. If you are an active duty servicemember, your branch of service will also be required to complete part of the form.

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ENFORCEMENT PROTECTION AGENCY

40 CFR Part 52


Approval and Promulgation of Implementation Plans; Texas; Control of Air Pollution From Nitrogen Compounds

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is finalizing its proposal to approve revisions to the Texas State Implementation Plan (SIP) for the control of Air Pollution from Nitrogen Compounds. Specifically, we are approving three separate revisions that were submitted to EPA with letters dated April 6, 2012, May 8, 2013, and May 14, 2013. Details of these submittals were explained in our proposal, and its corresponding Technical Support Document. A summary of each submittal is described in section III.

II. Public Comments

The public comment period for the May 23, 2013 (79 FR 29726) proposal expired on June 23, 2014, and we did not receive any comments on the proposed action during this period. Therefore, we are approving the May 23, 2013 (79 FR 29726) proposal without changes into the Texas SIP.

III. Submittals

A. The April 6, 2012 Submittal

The April 6, 2012 submittal concerns revisions to 30 TAC, Chapter 117 Control of Air Pollution from Nitrogen Compounds. The revisions to 30 TAC Chapter 117 remove references to the term “system cap trading” for utility electric generation sources operating in major ozone nonattainment areas and the East and Central Texas Counties. The revisions concern sections 117.1020, 117.1120, 117.1220, 117.3020, and 117.9800. The intended effect of this removal is that the April 13, 2012, revisions to 30 TAC Chapter 117 and their corresponding provisions of 30