

Title 10 - Armed Forces
Subtitle A - General Military Law
Part II - Personnel
Chapter 55 - Medical And Dental Care

§ 1078a. Continued health benefits coverage

(a) Provision of Continued Health Coverage.—The Secretary of Defense shall implement and carry out a program of continued health benefits coverage in accordance with this section to provide persons described in subsection (b) with temporary health benefits comparable to the health benefits provided for former civilian employees of the Federal Government and other persons under section 8905a of title 5.

(b) Eligible Persons.—The persons referred to in subsection (a) are the following:

(1) A member of the uniformed services who—

(A) is discharged or released from active duty (or full-time National Guard duty), whether voluntarily or involuntarily, under other than adverse conditions, as characterized by the Secretary concerned;

(B) immediately preceding that discharge or release, is entitled to medical and dental care under section 1074(a) of this title (except in the case of a member discharged or released from full-time National Guard duty); and

(C) after that discharge or release and any period of transitional health care provided under section 1145(a) of this title, would not otherwise be eligible for any benefits under this chapter.

(2) A person who—

(A) ceases to meet the requirements for being considered an unmarried dependent child of a member or former member of the uniformed services under section 1072(2)(D) of this title or ceases to meet the requirements for being considered an unmarried dependent under section 1072(2)(I) of this title;

(B) on the day before ceasing to meet those requirements, was covered under a health benefits plan under this chapter or transitional health care under section 1145(a) of this title as a dependent of the member or former member; and

(C) would not otherwise be eligible for any benefits under this chapter.

(3) A person who—

(A) is an unremarried former spouse of a member or former member of the uniformed services; and

(B) on the day before the date of the final decree of divorce, dissolution, or annulment was covered under a health benefits plan under this chapter or transitional health care under section 1145(a) of this title as a dependent of the member or former member; and

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(C) is not a dependent of the member or former member under subparagraph (F) or (G) of section 1072(2) of this title or ends a one-year period of dependency under subparagraph (H) of such section.

(c) Notification of Eligibility.—(1) The Secretary of Defense shall prescribe regulations to provide for persons described in subsection (b) to be notified of eligibility to receive health benefits under this section.

(2) In the case of a member who becomes (or will become) eligible for continued coverage under subsection (b)(1), the regulations shall provide for the Secretary concerned to notify the member of the member's rights under this section as part of preseparation counseling conducted under section 1142 of this title or any other provision of other law.

(3) In the case of a dependent of a member or former member who becomes eligible for continued coverage under subsection (b)(2), the regulations shall provide that—

(A) the member or former member may submit to the Secretary concerned a written notice of the dependent's change in status (including the dependent's name, address, and such other information as the Secretary of Defense may require); and

(B) the Secretary concerned shall, within 14 days after receiving that notice, inform the dependent of the dependent's rights under this section.

(4) In the case of a former spouse of a member or former member who becomes eligible for continued coverage under subsection (b)(3), the regulations shall provide appropriate notification provisions and a 60-day election period under subsection (d)(3).

(d) Election of Coverage.—In order to obtain continued coverage under this section, an appropriate written election (submitted in such manner as the Secretary of Defense may prescribe) shall be made as follows:

(1) In the case of a member described in subsection (b)(1), the written election shall be submitted to the Secretary concerned before the end of the 60-day period beginning on the later of—

(A) the date of the discharge or release of the member from active duty or full-time National Guard duty;

(B) the date on which the period of transitional health care applicable to the member under section 1145(a) of this title ends; or

(C) the date the member receives the notification required pursuant to subsection (c).

(2)(A) In the case of a dependent of a member or former member who becomes eligible for continued coverage under subsection (b)(2), the written election shall be submitted to the Secretary concerned before the end of the 60-day period beginning on the later of—

(i) the date on which the dependent first ceases to meet the requirements for being considered a dependent under subparagraph (D) or (I) of section 1072(2) of this title; or

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(ii) the date the dependent receives the notification pursuant to subsection (c).

(B) Notwithstanding subparagraph (A), if the Secretary concerned determines that the dependent's parent has failed to provide the notice referred to in subsection (c)(3)(A) with respect to the dependent in a timely fashion, the 60-day period under this paragraph shall be based only on the date under subparagraph (A)(i).

(3) In the case of a former spouse of a member or a former member who becomes eligible for continued coverage under subsection (b)(3), the written election shall be submitted to the Secretary concerned before the end of the 60-day period beginning on the later of—

(A) the date as of which the former spouse first ceases to meet the requirements for being considered a dependent under section 1072(2) of this title; or

(B) such other date as the Secretary of Defense may prescribe.

(e) Coverage of Dependents.—A person eligible under subsection (b)(1) to elect to receive coverage may elect coverage either as an individual or, if appropriate, for self and dependents. A person eligible under subsection (b)(2) or subsection (b)(3) may elect only individual coverage.

(f) Charges.—(1) Under arrangements satisfactory to the Secretary of Defense, a person receiving continued coverage under this section shall be required to pay into the Military Health Care Account or other appropriate account an amount equal to the sum of—

(A) the employee and agency contributions which would be required in the case of a similarly situated employee enrolled in a comparable health benefits plan under section 8905a(d)(1)(A)(i) of title 5; and

(B) an amount, not to exceed 10 percent of the amount determined under subparagraph (A), determined under regulations prescribed by the Secretary of Defense to be necessary for administrative expenses; and

(2) If a person elects to continue coverage under this section before the end of the applicable period under subsection (d), but after the person's coverage under this chapter (and any transitional extension of coverage under section 1145(a) of this title) expires, coverage shall be restored retroactively, with appropriate contributions (determined in accordance with paragraph (1)) and claims (if any), to the same extent and effect as though no break in coverage had occurred.

(g) Period of Continued Coverage.—(1) Continued coverage under this section may not extend beyond—

(A) in the case of a member described in subsection (b)(1), the date which is 18 months after the date the member ceases to be entitled to care under section 1074(a) of this title and any transitional care under section 1145 of this title, as the case may be;

(B) in the case of a person described in subsection (b)(2), the date which is 36 months after the date on which the person first ceases to meet the requirements for being considered a dependent under subparagraph (D) or (I) of section 1072(2) of this title; and

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(C) in the case of a person described in subsection (b)(3), except as provided in paragraph (4), the date which is 36 months after the later of—

- (i) the date on which the final decree of divorce, dissolution, or annulment occurs; and
- (ii) if applicable, the date the one-year extension of dependency under section 1072(2)(H) of this title expires.

(2) Notwithstanding paragraph (1)(B), if a dependent of a member becomes eligible for continued coverage under subsection (b)(2) during a period of continued coverage of the member for self and dependents under this section, extended coverage of the dependent under this section may not extend beyond the date which is 36 months after the date the member became ineligible for medical and dental care under section 1074(a) of this title and any transitional health care under section 1145(a) of this title.

(3) Notwithstanding paragraph (1)(C), if a person becomes eligible for continued coverage under subsection (b)(3) as the former spouse of a member during a period of continued coverage of the member for self and dependents under this section, extended coverage of the former spouse under this section may not extend beyond the date which is 36 months after the date the member became ineligible for medical and dental care under section 1074(a) of this title and any transitional health care under section 1145(a) of this title.

(4)(A) Notwithstanding paragraph (1), in the case of a former spouse described in subparagraph (B), continued coverage under this section shall continue for such period as the former spouse may request.

(B) A former spouse referred to in subparagraph (A) is a former spouse of a member or former member (other than a former spouse whose marriage was dissolved after the separation of the member from the service unless such separation was by retirement)—

- (i) who has not remarried before age 55 after the marriage to the employee, former employee, or annuitant was dissolved;
- (ii) who was enrolled in an approved health benefits plan under this chapter as a family member at any time during the 18-month period before the date of the divorce, dissolution, or annulment; and
- (iii)(I) who is receiving any portion of the retired or retainer pay of the member or former member or an annuity based on the retired or retainer pay of the member; or
(II) for whom a court order (as defined in section 1408(a)(2) of this title) has been issued for payment of any portion of the retired or retainer pay or for whom a court order (as defined in section 1447(13) of this title) or a written agreement (whether voluntary or pursuant to a court order) provides for an election by the member or former member to provide an annuity to the former spouse.

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NOTES

Source

(Added Pub. L. 102-484, div. D, title XLIV, Sec. 4408(a)(1), Oct. 23, 1992, 106 Stat. 2708; amended Pub. L. 103-35, title II, Sec. 201(g)(1), May 31, 1993, 107 Stat. 99; Pub. L. 103-337, div. A, title VII, Sec. 702(c), Oct. 5, 1994, 108 Stat. 2798; Pub. L. 104-201, div. A, title X, Sec. 1074(a)(4), Sept. 23, 1996, 110 Stat. 2658; Pub. L. 105-85, div. A, title X, Sec. 1073(a)(17), Nov. 18, 1997, 111 Stat. 1901; Pub. L. 108-136, div. A, title VII, Sec. 713(a), Nov. 24, 2003, 117 Stat. 1530.)

Amendments

2003—Subsec. (b)(1), (2)(A), (3)(A). Pub. L. 108-136 substituted “uniformed services” for “armed forces”.

1997—Subsec. (g)(4)(B)(iii)(II). Pub. L. 105-85 substituted “section 1447(13)” for “section 1447(8)”.

1996—Subsec. (a). Pub. L. 104-201 substituted “The Secretary” for “Beginning on October 1, 1994, the Secretary”.

1994—Subsec. (b)(2)(A). Pub. L. 103-337, Sec. 702(c)(1), inserted before semicolon “or ceases to meet the requirements for being considered an unmarried dependent under section 1072(2)(I) of this title”.

Subsec. (c)(3). Pub. L. 103-337, Sec. 702(c)(2), substituted “dependent” for “child” in two places and “dependent’s” for “child’s” wherever appearing.

Subsec. (d)(2)(A). Pub. L. 103-337, Sec. 702(c)(3), substituted “a dependent” for “a child” in introductory provisions, “the dependent” for “the child” in cls. (i) and (ii), and “a dependent under subparagraph (D) or (I) of section 1072(2) of this title;” for “an unmarried dependent child under section 1072(2)(D) of this title;” in cl. (i).

Subsec. (d)(2)(B). Pub. L. 103-337, Sec. 702(c)(4), substituted “dependent’s” for “child’s” and “dependent” for “child”.

Subsec. (g)(1)(B). Pub. L. 103-337, Sec. 702(c)(5), substituted “a dependent under subparagraph (D) or (I) of section 1072(2) of this title” for “an unmarried dependent child under section 1072(2)(D) of this title”.

Subsec. (g)(2). Pub. L. 103-337, Sec. 702(c)(6), substituted “dependent” for “child” in two places.

1993—Subsec. (b)(3)(C). Pub. L. 103-35, Sec. 201(g)(1)(A), substituted “subparagraph” for “subparagraphs” after “member under”.

Subsec. (d)(2)(A). Pub. L. 103-35, Sec. 201(g)(1)(B), inserted “under” after “coverage”.

Effective Date Of 2003 Amendment

Pub. L. 108-136, div. A, title VII, Sec. 713(b), Nov. 24, 2003, 117 Stat. 1531, provided that: “The amendments made by subsection (a) [amending this section] shall apply to members of the uniformed services who are not otherwise covered by section 1078a of title 10, United States Code, before the date of the enactment of this Act [Nov. 24, 2003] and who, on or after such date, first meet the eligibility criteria specified in subsection (b) of that section.”

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