

## § 1076c. Dental insurance plan: certain retirees and their surviving spouses and other dependents

(a) Requirement for Plan.—(1) The Secretary of Defense, shall establish a dental insurance plan for retirees of the uniformed services, certain unremarried surviving spouses, and dependents in accordance with this section.

(2) The Secretary may satisfy the requirement under paragraph (1) by entering into an agreement with the Director of the Office of Personnel Management to allow persons described in subsection (b) to enroll in an insurance plan under chapter 89A of title 5 that provides benefits similar to those benefits required to be provided under subsection (d).

(b) Persons Eligible for Plan.—The following persons are eligible to enroll in the dental insurance plan established under subsection (a):

(1) Members of the uniformed services who are entitled to retired pay.

(2) Members of the Retired Reserve who would be entitled to retired pay under chapter 1223 of this title but for being under 60 years of age.

(3) Eligible dependents of a member described in paragraph (1) or (2) who are covered by the enrollment of the member in the plan.

(4) Eligible dependents of a member described in paragraph (1) or (2) who is not enrolled in the plan and who—

(A) is enrolled under section 1705 of title 38 to receive dental care from the Secretary of Veterans Affairs;

(B) is enrolled in a dental plan that—

(i) is available to the member as a result of employment by the member that is separate from the military service of the member; and

(ii) is not available to dependents of the member as a result of such separate employment by the member; or

(C) is prevented by a medical or dental condition from being able to obtain benefits under the plan.

(5) The unremarried surviving spouse and eligible child dependents of a deceased member—

(A) who died while in a status described in paragraph (1) or (2);

(B) who is described in section 1448(d)(1) of this title; or

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(C) who died while on active duty for a period of more than 30 days and whose eligible dependents are not eligible, or no longer eligible, for dental benefits under section 1076a of this title.

(c) Premiums.—(1) A member enrolled in the dental insurance plan established under subsection (a) shall pay the premiums charged for the insurance coverage.

(2) The Secretary of Defense shall establish procedures for the collection of the premiums charged for coverage by the dental insurance plan. To the maximum extent practicable, the premiums payable by a member entitled to retired pay shall be deducted and withheld from the retired pay of the member (if pay is available to the member).

(d) Benefits Available Under the Plan.—The dental insurance plan established under subsection (a) shall provide benefits for dental care and treatment which may be comparable to the benefits authorized under section 1076a of this title for plans established under that section and shall include diagnostic services, preventative services, endodontics and other basic restorative services, surgical services, and emergency services.

(e) Coverage.—(1) The Secretary shall prescribe a minimum required period for enrollment by a member or surviving spouse in the dental insurance plan established under subsection (a).

(2) The dental insurance plan shall provide for voluntary enrollment of participants and shall authorize a member or eligible unremarried surviving spouse to enroll for self only or for self and eligible dependents.

(f) Required Terminations of Enrollment.—The Secretary shall terminate the enrollment of any enrollee, and any eligible dependents of the enrollee covered by the enrollment, in the dental insurance plan established under subsection (a) upon the occurrence of the following:

(1) In the case of an enrollment under subsection (b)(1), termination of the member's entitlement to retired pay.

(2) In the case of an enrollment under subsection (b)(2), termination of the member's status as a member of the Retired Reserve.

(3) In the case of an enrollment under subsection (b)(5), remarriage of the surviving spouse.

(g) Continuation of Dependents' Enrollment Upon Death of Enrollee.—Coverage of a dependent in the dental insurance plan established under subsection (a) under an enrollment of a member or a surviving spouse who dies during the period of enrollment shall continue until the end of that period and may be renewed by (or for) the dependent, so long as the premium paid is sufficient to cover continuation of the dependent's enrollment. The Secretary may terminate coverage of the dependent when the premiums paid are no longer sufficient to cover continuation of the enrollment. The Secretary shall prescribe in regulations under subsection (h) the parties responsible for paying the remaining premiums due on the enrollment and the manner for collection of the premiums.

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(h) Regulations.—The dental insurance plan established under subsection (a) shall be administered under regulations prescribed by the Secretary of Defense, in consultation with the other administering Secretaries.

(i) Voluntary Disenrollment.—(1) With respect to enrollment in the dental insurance plan established under subsection (a), the Secretary of Defense—

(A) shall allow for a period of up to 30 days at the beginning of the prescribed minimum enrollment period during which an enrollee may disenroll; and

(B) shall provide for limited circumstances under which disenrollment shall be permitted during the prescribed enrollment period, without jeopardizing the fiscal integrity of the dental program.

(2) The circumstances described in paragraph (1)(B) shall include—

(A) a case in which a retired member, surviving spouse, or dependent of a retired member who is also a Federal employee is assigned to a location outside the jurisdiction of the dental insurance plan established under subsection (a) that prevents utilization of dental benefits under the plan;

(B) a case in which a retired member, surviving spouse, or dependent of a retired member is prevented by a serious medical condition from being able to obtain benefits under the plan;

(C) a case in which severe financial hardship would result; and

(D) any other circumstances which the Secretary considers appropriate.

(3) The Secretary shall establish procedures for timely decisions on requests for disenrollment under this section and for appeal to the TRICARE Management Activity of adverse decisions.

(j) Definitions.—In this section:

(1) The term “eligible dependent” means a dependent described in subparagraph (A), (D), or (I) of section 1072(2) of this title.

(2) The term “eligible child dependent” means a dependent described in subparagraph (D) or (I) of section 1072(2) of this title.

(3) The term “retired pay” includes retainer pay.

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**NOTES**

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**Source**

(Added Pub. L. 104-201, div. A, title VII, Sec. 703(a)(1), Sept. 23, 1996, 110 Stat. 2588; amended Pub. L. 105-85, div. A, title VII, Secs. 701, 733(b), 734, Nov. 18, 1997, 111 Stat. 1807, 1812, 1813; Pub. L.

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105-261, div. A, title VII, Sec. 702, Oct. 17, 1998, 112 Stat. 2056; Pub. L. 106-65, div. A, title VII, Sec. 704, Oct. 5, 1999, 113 Stat. 683; Pub. L. 106-398, Sec. 1 [[div. A], title VII, Sec. 726, title X, Sec. 1087(a)(6)], Oct. 30, 2000, 114 Stat. 1654, 1654A-187, 1654A-290; Pub. L. 114-328, div. A, title VII, Sec. 715(b)(3), Dec. 23, 2016, 130 Stat. 2222.)

**Applicability of Amendment**

Amendment of section by section 715(b)(3) of Pub. L. 114-328 applicable with respect to the first contract year for chapter 89A or 89B of Title 5, Government Organization and Employees, as applicable, that begins on or after Jan. 1, 2018. See 2016 Amendment note below.

**Amendments**

2016—Subsec. (a). Pub. L. 114-328 amended subsec. (a) generally. Prior to amendment, text read as follows: “The Secretary of Defense, in consultation with the other administering Secretaries, shall establish a dental insurance plan for retirees of the uniformed services, certain unmarried surviving spouses, and dependents in accordance with this section.”

2000—Subsec. (b)(5)(C). Pub. L. 106-398, Sec. 1 [[div. A], title X, Sec. 1087(a)(6)], struck out “pursuant to subsection (i)(2) of such section” after “section 1076a of this title”.

Subsec. (f). Pub. L. 106-398, Sec. 1 [[div. A], title VII, Sec. 726(b)], substituted “Required Terminations” for “Termination” in heading.

Subsecs. (i), (j). Pub. L. 106-398, Sec. 1 [[div. A], title VII, Sec. 726(a)], added subsec. (i) and redesignated former subsec. (i) as (j).

1999—Subsec. (d). Pub. L. 106-65 amended heading and text of subsec. (d) generally. Text read as follows: “The dental insurance plan established under subsection (a) shall provide benefits for basic dental care and treatment, including diagnostic services, preventative services, basic restorative services (including endodontics), surgical services, and emergency services.”

1998—Subsec. (b)(4), (5). Pub. L. 105-261, Sec. 702(a), added par. (4) and redesignated former par. (4) as (5).

Subsec. (f)(3). Pub. L. 105-261, Sec. 702(b), substituted “(b)(5)” for “(b)(4)”.

1997—Subsec. (a). Pub. L. 105-85, Sec. 734(a)(1), (b)(1), substituted “The Secretary of Defense, in consultation with the other administering Secretaries, shall establish a dental insurance plan for retirees of the uniformed services” for “The Secretary of Defense shall establish a dental insurance plan for military retirees”.

Subsec. (b)(1). Pub. L. 105-85, Sec. 734(a)(2), substituted “uniformed services” for “Armed Forces”.

Subsec. (b)(4)(A). Pub. L. 105-85, Sec. 701(1)(A), substituted “died” for “dies”.

Subsec. (b)(4)(C). Pub. L. 105-85, Sec. 701(1)(B), (2), (3), added subpar. (C).

Subsec. (c)(2). Pub. L. 105-85, Sec. 733(b), amended par. (2) generally. Prior to amendment, par. (2) read as follows: “The amount of the premiums payable by a member entitled to retired pay shall be deducted and withheld from the retired pay and shall be disbursed to pay the premiums. The regulations prescribed under subsection (h) shall specify the procedures for payment of the premiums by other enrolled members and by enrolled surviving spouses.”

Subsec. (h). Pub. L. 105-85, Sec. 734(b)(2), substituted “other administering Secretaries” for “Secretary of Transportation”.

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**Effective Date Of 2016 Amendment**

Amendment by Pub. L. 114-328 applicable with respect to the first contract year for chapter 89A or 89B of this **Title 5, Government Organization and Employees**, as applicable, that begins on or after Jan. 1, 2018, see section 715(c) of Pub. L. 114-328, set out as a note under section 8951 of Title 5.

**Limitation On Implementation Of Alternative Collection Procedures**

Pub. L. 105-85, div. A, title VII, Sec. 733(d), Nov. 18, 1997, 111 Stat. 1813, provided that: "The Secretary of Defense may not implement procedures for collecting premiums under [former] section 1076b(b)(3) of title 10, United States Code, or section 1076c(c)(2) of such title other than by deductions and withholding from pay until 120 days after the date that the Secretary submits a report to Congress describing the justifications for implementing such alternative procedures."

**Implementation Of Dental Plan**

Pub. L. 104-201, div. A, title VII, Sec. 703(b), Sept. 23, 1996, 110 Stat. 2590, as amended by Pub. L. 105-85, div. A, title VII, Sec. 733(e), Nov. 18, 1997, 111 Stat. 1813, provided that: "Beginning not later than April 1, 1998, the Secretary of Defense shall—

- "(1) offer members of the Armed Forces and other persons described in subsection (b) of section 1076c of title 10, United States Code (as added by subsection (a)(1) of this section), the opportunity to enroll in the dental insurance plan required under that section; and
- "(2) begin to provide benefits under the plan."

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