



DEPARTMENT OF THE NAVY
OFFICE OF THE SECRETARY
1000 NAVY PENTAGON
WASHINGTON, D.C. 20350-1000

SECNAVINST 1770.4
ASN(M&RA)
21 Mar 2006

SECNAV INSTRUCTION 1770.4

From: Secretary of the Navy

Subj: SECRETARY OF THE NAVY TRAUMATIC INJURY
SERVICEMEMBERS' GROUP LIFE INSURANCE (TSGLI)
IMPLEMENTATION GUIDANCE AND APPEALS PROCESS

Ref: (a) Section 1032 of Public Law 109-13 (portions of
which are codified at 38 U.S.C. §§ 1965, 1980A)
(b) Office of the Under Secretary of Defense
(Personnel and Readiness) Memo of 23 Nov 05
(c) SECNAVINST 5420.193

Encl: (1) Procedures for Appeals of Eligibility
Determinations to the Traumatic Injury
Servicemembers' Group Life Insurance Appeals
Board

1. Purpose. To establish procedures, responsibilities, and appeals process for the implementation of the Traumatic Injury Servicemembers' Group Life Insurance (TSGLI) Program within the Department of the Navy (DON).

2. Background. Reference (a), signed by the President of the United States on May 11, 2005, established a Traumatic Injury Protection Insurance program under the auspices of the Servicemembers' Group Life Insurance (SGLI) program. All service members who participate in the SGLI program will automatically be covered by TSGLI. TSGLI is designed to provide financial assistance to service members during their recovery period from a serious traumatic injury.

3. Policy. It is DON policy to develop and implement procedures to ensure full compliance with the statutory requirements for Traumatic Injury Protection. Services should develop and implement their programs in collaboration with the Department of Veterans Affairs (VA) and the Office of Servicemembers' Group Life Insurance (OSGLI) to ensure that all claims for benefits are

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expeditiously processed and members are adequately informed of their rights, obligations, and benefits.

4. Action. The TSGLI program will provide financial assistance to service members suffering certain traumatic injuries as defined by the Department of Veterans Affairs in cooperation with the Department of Defense. Payment will be made based on the severity of the condition and in an amount that is not less than \$25,000 and not more than \$100,000, as determined by reference (b). The maximum amount payable for all injuries resulting from the same traumatic event is \$100,000. If a service member suffers more than one loss as a result of a traumatic injury, payment will be made in accordance with the prescribed schedule in reference (b) for the single loss providing the highest payment. This benefit is effective on December 1, 2005. However, under section 1032(c) of reference (a), any service member who experienced a covered traumatic injury between October 7, 2001, and December 1, 2005, is eligible to receive the insurance benefit if the qualifying loss was a direct result of injuries incurred while deployed outside of the Continental United States (CONUS) and on orders in support of Operation Enduring Freedom or Operation Iraqi Freedom or while deployed in an area that qualified for Combat Zone Tax Exclusion. All members covered by SGLI will be automatically insured for Traumatic Injury Protection unless they make a valid election to decline SGLI coverage.

5. Responsibility

a. The Assistant Secretary of the Navy (Manpower and Reserve Affairs) is responsible for the overall policy and execution of the TSGLI program.

b. The Chief of Naval Operations and Commandant of the Marine Corps are responsible for the establishment of detailed, written procedures of the TSGLI program implementation, instructions for handling claims and establishment of training programs for individuals who will assist in processing claims. Included in the program implementing guidance will be procedures allowing a member to request reconsideration of a denied claim by the office that initially reviewed the claim. A reconsideration request, and a denial or partial denial of the request by the service review authority, are prerequisites for review by the TSGLI Appeals Board as set forth in enclosure (1).

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c. The Director, Secretary of the Navy Council of Review Boards is responsible for the management and oversight of the TSGLI Appeals Board including the appointment of qualified board members. The Director shall also provide, when requested by the initial claims review authority, medical advisory opinions concerning whether a member has a qualifying traumatic injury.

d. All DON commands are responsible for taking immediate action to identify all members eligible for the retroactive TSGLI benefits and assist those members in applying for benefits.

/s/

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(Manpower and Reserve Affairs)

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PROCEDURES FOR
APPEALS OF ELIGIBILITY DETERMINATIONS
TO THE
'TRAUMATIC INJURY SERVICEMEMBERS'
GROUP LIFE INSURANCE APPEALS BOARD
OF THE
DEPARTMENT OF THE NAVY
UNDER 38 U.S.C. § 1980A
AND 38 C.F.R. 9.20

PROCEDURES

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Section 1. GENERAL PROVISIONS

These regulations establish procedures for the appeal of eligibility determinations for traumatic injury protection benefits by the Secretary of the Navy through the Traumatic Injury Servicemembers' Group Life Insurance (TSGLI) Appeals Board. It describes how to appeal eligibility determinations and how the Board considers appeals. It defines the Board's authority to act on appeals.

Section 2. ESTABLISHMENT, FUNCTION, AND JURISDICTION OF THE TSGLI APPEALS BOARD

a. ESTABLISHMENT AND COMPOSITION. In accordance with 38 U.S.C. § 1980A, 38 C.F.R. 9.20, and Office of the Under Secretary of Defense Memorandum, dated November 23, 2005, the Secretary of the Navy established the TSGLI Appeals Board. The Board consists of three member panels appointed by the Director, Secretary of the Navy Council of Review Boards (CORB), and who shall serve at the pleasure of the Director. One member of each panel must be a physician. The Director will designate one member as the Board Chair.

b. FUNCTION. The TSGLI Appeals Board is not an investigative body. Its function is to consider appeals properly before it by current and former members of the Navy and Marine Corps following a denial of eligibility for traumatic injury protection benefits by the Office Of Servicemembers' Group Life Insurance (OSGLI) and to make recommendations to the Secretary, or to take action on the Secretary's behalf when authorized.

c. JURISDICTION. The TSGLI Appeals Board shall have jurisdiction to review and determine all matters properly brought before it, consistent with existing law.

Section 3. FILING APPEALS

a. GENERAL REQUIREMENTS.

(1) The appeal of a denial of eligibility determination by the OSGLI for traumatic injury protection benefits must be submitted and should be addressed to: Traumatic Injury Servicemembers' Group Life Insurance Appeals Board, Secretary of the Navy Council of Review Boards, 720

Kennon Street S.E., Room 309, Washington Navy Yard, D.C. 20374-5023.

(2) Except as provided in paragraph (3) of this section, the appeal shall be signed by the member requesting the appeal or the member's legal representative and will either be sworn to or contain a provision to the effect that the statements submitted in the appeal are made with full knowledge of the penalty provided by law for making a false statement or claim. (10 U.S.C. §§ 907, 932; 18 U.S.C. §§ 287, 1001.)

(3) When the appeal in question is that of a member who is incapable of submitting an appeal, a spouse, parent, heir, or legal representative may submit the appeal. Proof of proper interest shall be submitted with the application.

b. TIME LIMIT FOR FILING APPEALS. The TSGLI Appeals Board must receive appeals of eligibility determinations for traumatic injury protection benefits within one year of the date of the OSGLI denial of eligibility letter. Failure to file within the time prescribed may be excused by the Board if it finds it would be in the interest of justice to do so.

c. ACCEPTANCE OF APPEALS.

(1) An appeal will be accepted for consideration unless:

(a) The member has failed to first submit a request for reconsideration to the initial denial authority in accordance with service implementing guidance, or a decision has not yet been rendered on the reconsideration request by the OSGLI.

(b) The member has failed to comply with the filing requirements of paragraphs a(1), a(2), a(3), or b. of this section.

(2) The TSGLI Appeals Board will promptly notify members whose appeals it does not accept for consideration.

(a) Members whose appeals are not accepted for consideration for failure to first submit a request for reconsideration per c.(1)(a) of this section will have until the end of the prescribed one-year period for filing an appeal or 60 calendar days from the date of the Board's notification letter,

whichever is later, to comply with the requirement to submit a reconsideration request to the initial denial authority.

(b) Members whose appeals are not accepted for consideration for failure to comply with the filing requirements of paragraphs a(1), a(2), or a(3) of this section will have until the end of the prescribed one-year period for filing an appeal or 35 calendar days from the date of the Board's notification letter, whichever is later, to comply with those filing requirements.

(c) Members whose appeals are not accepted for failure to file an appeal within one year of the date of the denial of eligibility by OSGLI and for not providing a reason or reasons for such failure to file that the TSGLI Appeals Boards finds is in the interest of justice to excuse may request reconsideration under Section 9 of these procedures.

d. OTHER PROCEEDINGS NOT STAYED. Filing an appeal with the TSGLI Appeals Board shall not operate as a stay of any other proceedings being taken with respect to the member involved.

e. CONSIDERATION OF APPEAL.

(1) Each appeal accepted for consideration and all pertinent evidence of record will be reviewed by a TSGLI Appeals Board panel sitting in executive session to determine whether the eligibility determination at issue be affirmed, reversed, or modified. This determination will be made by majority vote.

(2) The evidentiary standard for TSGLI determinations is a preponderance of the evidence. Preponderance of the evidence is that evidence that tends to prove one side of a disputed fact by outweighing the evidence on the other side (that is, by more than 50 percent). Preponderance does not necessarily mean a greater mass of evidence. Rather, preponderance means a superiority of evidence on one side or the other of a disputed fact. It is a term that refers to the quality, rather than the quantity, of the evidence.

Section 4. ACCESS TO RECORDS

a. GENERAL.

(1) It is the member's responsibility to procure such evidence not contained in the official records of the Department

of the Navy as he or she desires to present in support of his or her case.

(2) Classified or privileged information may be released to members only by proper authorities in accordance with applicable regulations.

(3) Nothing in these regulations authorizes the furnishing of copies of official records by the Board. Requests for copies of official records should be submitted in accordance with regulations governing the release of information. The Board can provide a member with information regarding procedures for requesting copies of these records from the appropriate retention agency.

Section 5. ACTION BY THE BOARD

a. DELIBERATIONS AND FINDINGS.

(1) Whenever, during the course of its review of an appeal, it appears to the Board panel's satisfaction that the facts have not been fully and fairly disclosed by the records or other evidence before it, the panel may require the member or military authorities to provide such further information as it may consider essential to a complete and impartial determination of the facts and issues.

(2) The Board will make written findings that will include a statement of rationale. A majority vote of the members present on any matter before the Board panel will constitute the action of the Board and shall be so recorded in the report.

b. MINORITY REPORT. In case of a disagreement between members of a panel of the TSGLI Appeals Board, a minority report may be submitted.

c. RECORD OF PROCEEDINGS. A record of proceedings will be maintained by the Board that includes the Board's report, the application for relief, affidavits, papers, and documents considered by the panel, briefs and written arguments, advisory opinions, if any, minority reports, if any, and the findings of the board.

d. WITHDRAWAL. The TSGLI Appeals Board may permit a member to withdraw his or her appeal without prejudice at any time prior to the Board voting the case or forwarding the record

of proceedings to the Secretary in those cases requiring Secretarial action.

e. DELEGATION OF AUTHORITY TO TAKE FINAL ACTION ON CERTAIN APPEALS.

(1) With respect to all appeals properly before it, the TSGLI Appeals Board is authorized to take final action on behalf of the Secretary unless it is in the category of appeals reserved for decision by the Secretary of the Navy.

(2) The following categories of appeals are reserved for decision by the Secretary of the Navy:

(a) Appeals involving eligibility determinations previously reviewed or acted upon by the Secretary wherein the operative facts remained substantially the same; or,

(b) Such other appeals as, in the determination of the Office of the Secretary or the Director, CORB, warrant Secretarial review.

Section 6. ACTION BY THE SECRETARY

The record of proceedings, except in cases finalized by the TSGLI Appeals Board under the authority delegated in Section 5e, will be forwarded to the Secretary who will direct such action as he or she determines to be appropriate, which may include the return of the record to the Board for further consideration. Those cases returned for further consideration shall be accompanied by a brief statement setting out the reasons for such action along with any specific instructions.

Section 7. STAFF ACTION

a. TRANSMITTAL OF FINAL DECISIONS.

(1) Upon receipt of the record of proceedings after final action by the Secretary, or by the Board acting under the authority contained in Section 5., the Board shall provide a written statement to the member that includes the Board's, or the Secretary of the Navy's, rationale.

(2) A copy of the decision document shall be provided to the initial TSGLI reviewing office for appropriate action.

Section 8. RECONSIDERATION

After final adjudication, further consideration will be granted only upon presentation by the member of new and material evidence or other matter not previously considered by the TSGLI Appeals Board. New evidence is defined as evidence not previously considered by the Board and not reasonably available to the member at the time of the previous application. Evidence is material if it is likely to have a substantial effect on the outcome. All requests for further consideration will be initially screened by the Director, CORB, to determine whether new and material evidence or other matter (including, but not limited to, any factual allegations or arguments why the appeal should be granted) has been submitted by the member. If such evidence or other matter has been submitted, the request shall be forwarded to the Board for a decision. If no such evidence or other matter has been submitted, the member will be informed that his or her request was not considered by the Board because it did not contain new and material evidence or other matter.

Section 9. BOARD FOR CORRECTION OF NAVAL RECORDS (BCNR)

Following review by the TSGLI Appeals Board, any member who believes an error or injustice was committed in the review of their case may petition the BCNR for relief in accordance with reference (c).

Section 10. JUDICIAL REVIEW

Any member who is adversely affected by a final decision of the TSGLI Appeals Board or the Secretary may obtain judicial review in a United States District Court of competent jurisdiction under 38 U.S.C. § 1975.