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Federal Regulations**

Title 38, Parts 6, 7, 8, 8a, and 9

*Insurance*

**Veterans Benefits Administration**

Supplement No. 21

Covering period of *Federal Register* issues  
through issue of July 3, 2009

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Custom Federal Regulations Service™

**Supplemental Materials for *Book D***

**Code of Federal Regulations  
Title 38, Parts 6, 7, 8, 8a, and 9**

*Insurance*

**Veterans Benefits Administration**

**Supplement No. 21**

5 July 2009

Covering the period of Federal Register issues  
through July 3, 2009

When **Book D** was originally prepared, it was current through final regulations published in the *Federal Register* of 28 April 1992. These supplemental materials are designed to keep your regulations up to date. You should file the attached pages immediately, and record the fact that you did so on the *Supplement Filing Record* which is at page D-8 of Book D, *Insurance*.

**To ensure accuracy and timeliness of your materials,  
it is important that you follow these simple procedures:**

1. Always file your supplemental materials immediately upon receipt.
2. Before filing, always check the Supplement Filing Record (page D-8) to be sure that all prior supplements have been filed. If you are missing any supplements, contact the Veterans Benefits Administration at the address listed on page D-2.
3. After filing, enter the relevant information on the Supplement Filing Record sheet (page D-8)—the date filed, name/initials of filer, and date through which the *Federal Register* is covered.
4. If as a result of a failure to file, or an undelivered supplement, you have more than one supplement to file at a time, be certain to file them in chronological order, lower number first.
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To execute the filing instructions, simply remove *and throw away* the pages listed under *Remove These Old Pages*, and replace them in each case with the corresponding pages from this supplement listed under *Add These New Pages*. Occasionally new pages will be added without removal of any old material (reflecting new regulations), and occasionally old pages will be removed without addition of any new material (reflecting rescinded regulations)—in these cases the word *None* will appear in the appropriate column.

**FILING INSTRUCTIONS**

**Book D, Supplement No. 21  
July 5, 2009**

*Remove these  
old pages*

*Add these  
new pages*

*Section(s)  
Affected*

**Do not file this supplement until you confirm that all prior supplements have been filed**

9.1-1 to 9.1-2

9.1-1 to 9.1-2

§9.1 (citation only)

9.20-9 to 9.20-10

9.20-9 to 9.20-10

§9.20 (citation only)

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*Supplement Filing Record (page D-8)*  
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## HIGHLIGHTS

### Book D, Supplement No. 21 July 5, 2009

**Supplement Highlights references:** Where substantive changes are made in the text of regulations, the paragraphs of *Highlights* sections are cited at the end of the relevant section of text. Thus, if you are reading §3.263, you will see a note at the end of that section which reads: “Supplement *Highlights* references—6(2).” This means that paragraph 2 of the *Highlights* section in Supplement No. 6 contains information about the changes made in §3.263. By keeping and filing the *Highlights* sections, you will have a reference source explaining all substantive changes in the text of the regulations.

**Supplement frequency:** This Book D (*Insurance*) was originally supplemented twice a year, in April and October. Beginning 1 August 1995, supplements will be issued *every month* during which a final rule addition or modification is made to the parts of Title 38 covered by this book. Supplements will be numbered consecutively as issued.

### **Modifications in this supplement include the following:**

1. On 4 June 2009, the VA published a final rule, effective that same date, to adopt as final without change an interim final rule published on 26 November 2008 (73 Fed. Reg. 71926) that amended regulations regarding the Servicemembers’ Group Life Insurance traumatic injury protection program. Changes:

- Added citation references to §§9.1 and 9.20.

100

**Part 9****Servicemembers' Group Life Insurance  
and  
Veterans' Group Life Insurance**

**Authority:** 38 U.S.C. 501, 1965–1980A, unless otherwise noted.

**Source:** 40 FR 4135, Jan. 28, 1975, as amended at 61 FR 30134, May 6, 1996,  
unless otherwise noted.

**§9.1 Definitions.**

The following definitions are in addition to those definitions in 38 U.S.C. 101 and 1965:

(a) The term *policy* means Group Policy No. G-32000, which was effective September 29, 1965, purchased from the insurer pursuant to 38 U.S.C. 1966, executed and attested on December 30, 1965, and amended thereafter.

(b) The term *administrative office* means the Office of Servicemembers' Group Life Insurance, located at 80 Livingston Avenue, Roseland, New Jersey 07068.

(c) The term *insurer* means the commercial life insurance company or companies selected under 38 U.S.C. 1966 to provide insurance coverage specified in the policy.

(d) The term *reinsurer* means any life insurance company meeting all the criteria set forth in §9.10 which reinsures a portion of the total amount of insurance covered by the policy and issues individual life insurance policies to members under the provisions of 38 U.S.C. 1968(b) and 1977(e).

(e) The term *converter* means any life insurance company meeting all the criteria set forth in §9.10 which issues individual life insurance policies to members under the provisions of 38 U.S.C. 1968(b) and 1977(e).

(f) The term *coverage* means Servicemembers' Group Life Insurance or Veterans' Group Life Insurance payable while the member is insured under the policy.

(g) The term *termination of duty* means:

(1) In the case of active duty or active duty for training being performed under a call or order that does not specify a period of less than 31 days—discharge, release or separation from such duty.

(2) In the case of other duty—the member's release from his or her obligation to perform any duty in his or her uniformed service (active duty, or active duty for training or inactive duty training) whether arising from limitations included in a contract of enlistment or similar form of obligation or arising from resignation, retirement or other voluntary action by which the obligation to perform such duty ceases.

(h) The term *break in service* means the situation(s) in which:

(1) A member terminates duty or obligation to perform duty in one service and enters on duty or assumes the obligation to perform duty in another uniformed service, regardless of the length of time intervening.

(2) A member reenters on duty or resumes an obligation to perform duty as a Reserve in the same uniformed service and 1 calendar day or more has elapsed following termination of the prior period of duty or obligation to perform duty.

(i) The term *disability* means any type of injury or disease whether mental or physical.

(j) The term *total disability* means any impairment of mind or body which continuously renders it impossible for the insured to follow any substantially gainful occupation. Without prejudice to any other cause of disability, the permanent loss of the use of both feet, of both hands, or of both eyes, or of one foot and one hand, or of one foot and one eye, or of one hand and one eye, or the total loss of hearing of both ears, or the organic loss of speech shall be deemed to be total disability. Organic loss of speech will mean the loss of the ability to express oneself, both by voice and whisper, through the normal organs of speech if such loss is caused by organic changes in such organs. Where such loss exists, the fact that some speech can be produced through the use of an artificial appliance or other organs of the body will be disregarded.

[40 FR 4135, Jan. 28, 1975, as amended at 53 FR 17698, May 18, 1988; 61 FR 20135, May 6, 1996; 62 FR 35970, July 3, 1997; 67 FR 52413, Aug. 12, 2002; 70 FR 75946, Dec. 22, 2005; 73 FR 71930, Nov. 26, 2008; 74 FR 26788, June 4, 2009]

**Supplement *Highlights* references:** 8(1), 15(1), 17(1), 20(1), 21(1).



*\*\*Note: Duration of hospitalization includes dates on which member is transported from the injury site to a facility described in §9.20(e)(6)(xiii), admitted to the facility, transferred between facilities, and discharged from the facility.*

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(g) *Who will determine eligibility for traumatic injury protection benefits?* Each uniformed service will certify its own members for traumatic injury protection benefits based upon section 1032 of Public Law 109-13, section 501 of Public Law 109-233, and this section. The uniformed service will certify whether you were at the time of the traumatic injury insured under Servicemembers' Group Life Insurance and whether you have sustained a qualifying loss.

(h) *How does a member make a claim for traumatic injury protection benefits?*

(1) (i) A member who believes he or she qualifies for traumatic injury protection benefits must complete Part A of the Application for TSGLI Benefits Form and sign the form.

(ii) If a member is unable to sign the Application for TSGLI Benefits Form due to the member's physical or mental incapacity, the form must be signed by the member's guardian; if none, the member's agent or attorney acting under a valid Power of Attorney; if none, the member's military trustee.

(iii) If a member suffered a scheduled loss as a direct result of the traumatic injury, survived seven full days from the date of the traumatic event, and then died before the maximum benefit for which the service member qualifies is paid, the beneficiary or beneficiaries of the member's Servicemembers' Group Life Insurance policy should complete an Application for TSGLI Benefits Form.

(2) If a member seeks traumatic injury protection benefits for a scheduled loss occurring after submission of a completed Application for TSGLI Benefits Form for a different scheduled loss, the member must submit a completed Application for TSGLI Benefits Form for the new scheduled loss and for each scheduled loss that occurs thereafter and for each increment of a scheduled loss that occurs thereafter. For example, if a member seeks traumatic injury protection benefits for a scheduled loss due to coma from traumatic injury and/or the inability to carry out activities of daily living due to traumatic brain injury (§9.20(f)(17)), or the inability to carry out activities of daily living due to loss directly resulting from a traumatic injury other than an injury to the brain (§9.20(f)(19)), a completed Application for TSGLI Benefits Form must be submitted for each increment of time for which TSGLI is payable. Also, for example, if a service member suffers a scheduled loss due to a coma, a completed Application for TSGLI Benefits Form should be filed after the 15th consecutive day that the member is in the coma, for which \$25,000 is payable. If the member remains in a coma for another 15 days, another completed Application for TSGLI Benefits Form should be submitted and another \$25,000 will be paid.

(i) *How does a member or beneficiary appeal an adverse eligibility determination?*

(1) Notice of a decision regarding a member's eligibility for traumatic injury protection benefits will include an explanation of the procedure for obtaining review of the decision. An appeal of an eligibility determination, such as whether the loss occurred within 365 days of the traumatic injury, whether the injury was self-inflicted or whether a loss of hearing was total and permanent, must be in writing. An appeal must be submitted by a member or a member's legal representative or by the beneficiary or the beneficiary's legal representative, within one year of the date of a denial of eligibility, to the office of the uniformed service identified in the decision regarding the member's eligibility for the benefit.

(2) An appeal regarding whether a member was insured under Servicemembers' Group Life Insurance when the traumatic injury was sustained must be in writing. An appeal must be submitted by a member or a member's legal representative or by the beneficiary or the beneficiary's legal representative within one year of the date of a denial of eligibility to the Office of Servicemembers' Group Life Insurance.

(3) Nothing in this section precludes a member from pursuing legal remedies under 38 U.S.C. 1975 and 38 CFR 9.13.

(j) *Who will be paid the traumatic injury protection benefit?* The injured member who suffered a scheduled loss will be paid the traumatic injury protection benefit in accordance with title 38 U.S.C. 1980A except under the following circumstances:

(1) If a member is legally incapacitated, the member's guardian or agent or attorney acting under a valid Power of Attorney will be paid the benefit on behalf of the member.

(2) If no guardian, agent, or attorney is authorized to act as the member's legal representative, a military trustee who has been appointed under the authority of 37 U.S.C. 602 will be paid the benefit on behalf of the member. The military trustee will report the receipt of the traumatic injury benefit payment and any disbursements from that payment to the Department of Defense.

(3) If a member dies before payment is made, the beneficiary or beneficiaries who will be paid the benefit will be determined in accordance with 38 U.S.C. 1970(a). (Authority: 37 U.S.C. 602, 603; 38 U.S.C. 501(a), 1980A)

(k) The Traumatic Servicemembers' Group Life Insurance program will be administered in accordance with this rule, except to the extent that any regulatory provision is inconsistent with subsequently enacted applicable law.

(The Office of Management and Budget has approved the information collection requirements in this section under control number 2900-0671.)

[70 FR 75946, Dec. 22, 2005, as amended at 72 FR 10365, Mar. 8, 2007; 73 FR 71930, Nov. 26, 2008; 74 FR 26788, June 4, 2009]

**Supplement *Highlights* references:** 17(1), 19(1), 20(1), 21(1).

*End of Part 9*