



DEPARTMENT OF VETERANS AFFAIRS

8320-01

38 CFR Part 9

RIN 2900-AQ98

Extension of Veterans' Group Life Insurance (VGLI) Application Period In Response To The COVID-19 Public Health Emergency

AGENCY: Department of Veterans Affairs.

ACTION: Interim final rule.

SUMMARY: The Department of Veterans Affairs (VA) is issuing this interim final rule to extend the deadline for former members insured under Servicemembers' Group Life Insurance (SGLI) to apply for Veterans' Group Life Insurance (VGLI) coverage following separation from service in order to address the inability of members directly or indirectly affected by the 2019 Novel Coronavirus (COVID-19) public health emergency to purchase VGLI. This rule will be in effect for one year.

DATES: *Effective Date:* This interim final rule is effective [insert date of publication in the Federal Register].

Comment Date: Comments must be received on or before [insert date that is 30 days after date of publication in the Federal Register].

ADDRESSES: Written comments may be submitted through <http://www.Regulations.gov>; by mail or hand-delivery to: Director, Office of Regulation Policy and Management (00REG), Department of Veterans Affairs, 810 Vermont Ave., NW, Room 1064, Washington, DC 20420; or by fax to (202) 273-9026. (This is not a

toll-free telephone number.) Comments should indicate that they are submitted in response to “AQ98(IF) – Extension of Veterans' Group Life Insurance (VGLI) Application Period In Response To The COVID-19 Public Health Emergency.” Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1064, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call (202) 461-4902 for an appointment. (This is not a toll-free telephone number.) In addition, during the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at <http://www.Regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Paul Weaver, Department of Veterans Affairs Insurance Service (310/290B), 5000 Wissahickon Avenue, Philadelphia, PA 19144, (215) 842-2000, ext. 4263. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION:

The Secretary of Veterans Affairs has authority to prescribe regulations that are necessary or appropriate to carry out the laws administered by VA and that are consistent with those laws. 38 U.S.C. 501(a). Section 1977 of title 38, United States Code, authorizes the VGLI program, which provides former members separating from service with the option of converting existing SGLI coverage into renewable, 5-year term group life insurance coverage in amounts ranging from \$10,000 to \$400,000 based upon the amount of SGLI coverage. See 38 U.S.C. 1967(a), 1968(b)(1)(A), 1977(a), (b). Furthermore, section 1977(b)(5) states that VGLI shall "contain such other terms and

conditions as the Secretary determines to be reasonable and practicable which are not specifically provided for in" section 1977.

Pursuant to these statutes, VA promulgated 38 CFR 9.2, which provides the effective dates of VGLI coverage and application requirements. VGLI coverage may be granted if an application, the initial premium, and evidence of insurability are received within 1 year and 120 days following termination of duty. 38 CFR 9.2(c). Evidence of insurability is not required during the initial 240 days following termination of duty. *Id.*

On March 13, 2020, President Donald J. Trump issued Proclamation 9994 proclaiming that the 2019 novel Coronavirus (COVID-19) outbreak in the United States constitutes a national emergency beginning March 1, 2020. 85 Fed. Reg. 15337 (Mar. 18, 2020). Because of mitigation strategies to flatten the curve of infections and reduce the spread of COVID-19, the United States economy has been severely impacted, with national unemployment claims reaching historic levels. Proclamation 10014 of April 22, 2020, 85 Fed. Reg. 23441 (Apr. 27, 2020); *see also* Executive Order on Regulatory Relief to Support Economic Recovery (May 19, 2020) (directing agencies to address this economic emergency by rescinding, modifying, waiving, or providing exemptions from regulations and other requirements that may inhibit economic recovery). We believe that, as a result of the economic situation, former members, who otherwise may be eligible for VGLI coverage, currently may not be able to afford VGLI coverage or to provide evidence of insurability.

VA is therefore amending 38 CFR 9.2 by adding new subsection (f)(1) to extend by 90 days the time periods under 38 CFR 9.2(c) during which former members may

apply for VGLI . Former members who submit a VGLI application and the initial premium within 330 days following separation from service will not be required to submit evidence of insurability. Former members who do not apply for VGLI within 330 days following separation from service may still receive VGLI coverage if they apply for the coverage within 1 year and 210 days following separation from service and submit the initial premium and evidence of insurability. These amendments will ease the financial consequences of the COVID-19 pandemic by extending the time limits for former members to enroll in VGLI, some of whom do not qualify for a private commercial plan of insurance due to their disabilities.

New paragraph (f)(2) establishes a sunset provision for this regulation.

Paragraph (f)(1) will not apply one year after the effective date of this rule.

Administrative Procedure Act

The Secretary of Veterans Affairs finds that there is good cause to dispense with the opportunity for prior comment with respect to this rule and to make the rule effective upon publication. Pursuant to 5 U.S.C. 553(b)(B), the opportunity for advance public comment is not required with respect to a rulemaking when an “agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.” The Secretary finds that it is impracticable to delay this regulation for the purpose of soliciting public comment because former members cannot receive VGLI coverage if they do not satisfy the application requirements within the deadlines established by 38 CFR 9.2(c). This 90-day extension is also consistent with extensions private insurers are currently providing for applicants who are currently

unable to afford insurance or to submit documents evidencing proof of insurability as a result of the COVID-19 pandemic.

Section 553(d) also requires a 30-day delayed effective date following publication of a rule, except for “(1) a substantive rule which grants or recognizes an exemption or relieves a restriction; (2) interpretative rules and statements of policy; or (3) as otherwise provided by the agency for good cause found and published with the rule.” Pursuant to section 553(d)(1), the Secretary finds that this interim final rule should be effective immediately upon publication because this is a substantive rule which relieves restrictions, *i.e.*, extends deadlines for VGLI applications. Also, pursuant to section 553(d)(3), the Secretary finds that there is good cause to make the rule effective upon publication because of the impracticability of delaying implementation the regulatory amendment, as discussed above.

For the foregoing reasons, the Secretary of Veterans Affairs is issuing this rule as an interim final rule with an immediate effective date. The Secretary of Veterans Affairs will consider and address comments that are received within 30 days of the date this interim final rule is published in the Federal Register.

Paperwork Reduction Act

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

Executive Orders 12866, 13563, and 13771

Executive Orders 12866 and 13563 direct agencies to assess the 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. The Office of Information and Regulatory Affairs has determined that this interim final rule is not 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 website at <http://www.va.gov/orpm> by following the link for "VA Regulations Published From FY 2004 Through Fiscal Year to Date." This interim final rule is not expected to be an EO 13771 regulatory action because this interim final rule is not significant under EO 12866.

Regulatory Flexibility Act

The Secretary hereby certifies that this interim 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. The provisions contained in this interim final rulemaking are applicable to individual Veterans, and applications for VGLI, as submitted by such individuals, are specifically managed and processed within VA and

through Prudential Insurance Company of America, which is not considered to be a small entity. Therefore, pursuant to 5 U.S.C. 605(b), the initial and final regulatory flexibility analysis requirements of 5 U.S.C. 603 and 604 do not apply.

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 the 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 interim final rule has no such effect on State, local, and tribal governments, or on the private sector.

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.

Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 et seq.), the Office of Information and Regulatory Affairs designated this rule as not a major rule, as defined by 5 U.S.C. 804(2).

List of Subjects in Part 9

Life insurance, Military personnel, Veterans.

Signing Authority

The 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. Brooks D. Tucker, Acting Chief of Staff, Department of Veterans Affairs, approved this document on June 5, 2020, for publication.

Luvenia Potts,
Regulation Development Coordinator,
Office of Regulation Policy & Management,
Office of the Secretary,
Department of Veterans Affairs.

For the reasons stated in the preamble, the Department of Veterans Affairs amends 38 CFR part 9 as follows:

PART 9—SERVICEMEMBERS' GROUP LIFE INSURANCE AND VETERANS' GROUP LIFE INSURANCE

1. The authority citation for Part 9 continues to read as follows:

AUTHORITY: 38 U.S.C. 501, 1965-1980A, unless otherwise noted.

2. Section 9.2 is amended by adding a new paragraph (f) to read as follows:

§ 9.2 Effective date; applications.

* * * * *

(f)(1) If an application, initial premium, or evidence of insurability (as the case may be) has not been received by the administrative office within the time limits set forth in paragraph (c) of this section, Veterans' Group Life Insurance coverage may still be granted if an application, the initial premium, and evidence of insurability are received by the administrative office within 1 year and 210 days following termination of duty, except that evidence of insurability is not required during the initial 330 days following termination of duty.

(2) Paragraph (f)(1) of this section shall not apply to an application or initial premium received after June 11, 2021.

[FR Doc. 2020-12559 Filed: 6/10/2020 8:45 am; Publication Date: 6/11/2020]