

**38 CFR Part 9****[Docket No. VA-2024-VBA-0014]****RIN 2900-AS12****Servicemembers' Group Life Insurance Traumatic Injury Protection Program
Amendments****AGENCY:** Department of Veterans Affairs.**ACTION:** Final rule.

SUMMARY: The Department of Veterans Affairs (VA) is amending its regulations that govern the Servicemembers' Group Life Insurance (SGLI) Traumatic Injury Protection (TSGLI) program to correct an unintended amendment to the TSGLI Schedule of Losses for payments for inability to perform at least two activities of daily living (ADL) for 15, 30, 60, and 90 consecutive day periods as a result of a traumatic injury other than a traumatic brain injury.

DATES: This final rule is effective [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Samantha Yerdon, Program Analyst, Insurance Service, Veterans Benefits Administration, (215) 842-2000, ext. 5494.

SUPPLEMENTARY INFORMATION: On March 15, 2023, VA published a final rule in the Federal Register that amended its regulations governing the TSGLI program. 88 FR 15907. As part of this rulemaking, VA recodified the TSGLI Schedule of Losses and amended the eligibility standards for certain losses covered under the schedule. Following publication of the final rule, VA discovered that it had inadvertently changed the Schedule of Losses for inability to perform at least two ADLs as a result of a traumatic injury other than a traumatic brain injury. Neither the preamble to the proposed rule nor the preamble to the final rule addressed this change to the TSGLI

regulation. See 85 FR 50973; 88 FR 15907. On July 24, 2024, VA published a proposed rule to correct this inadvertent change. 89 FR 59865. VA received one comment from the National Veterans Legal Services Program (NVLSP), which we address below.

The comments submitted by NVLSP assert that VA should leave the inadvertent change in the Schedule of Losses for the following reasons: (1) the TSGLI program is in good financial health as evidenced by the fact that VA has not needed to increase the TSGLI premium since inception; therefore, more generous benefits for this loss will not hurt the program; (2) the TSGLI program's focus should be on caring for wounded Service members and should not distinguish between temporary and permanent injuries; and (3) VA is not legally required to consult with the Department of Defense (DoD) in updating the TSGLI regulations published in March 2023.

Financial Health of TSGLI

TSGLI became effective on December 1, 2005. The program provides payments to Service members and Veterans who are insured by SGLI and suffer a serious traumatic injury in service resulting in a loss that qualifies for payment under TSGLI. TSGLI benefits are also payable retroactively to any member who suffered a traumatic injury from October 7, 2001, to November 30, 2005, resulting in a qualifying injury, regardless of whether they had SGLI coverage at the time of the injury. TSGLI premiums are \$1.00 per month and are intended to cover only the civilian incidence of such injuries. The uniformed services fund the cost of claims in excess of premiums collected, with such claims attributed to the extra hazards of military service. Extra hazards funding in TSGLI was needed during periods of U.S. military involvement in Iraq and Afghanistan. In addition, the uniformed services pay for the total cost of retroactive claims. The TSGLI fund balance as of June 30, 2024, was \$60.1 million. Of this, \$28 million was contributed by DoD as start-up funds when the program began and is therefore earmarked for extra hazards costs. In addition, a portion of the remaining

fund balance must be set aside to account for the lag in reporting of claims.

An analysis of the claims experience for policy years 2015 to 2024 indicates that TSGLI payments using the shorter time periods for the TSGLI Schedule of Losses for Other Traumatic Injury (OTI) resulting in inability to perform ADLs (15, 30, 60, 90 days) would have resulted in an additional 1,385 claims and an increase of \$34.6 million in payout. Additionally, the shorter time period for payment would have resulted in claims and administrative expenses exceeding premium collections for eight of the past 10 policy years. The additional claim payments using the shorter timeframes average approximately \$3.5 million per year over the past 10 policy years. Assuming that OTI ADL loss experience trends similarly going forward, premium collections will cover only about 81% of claims and administrative expenses. Consequently, use of the shorter time periods for the Schedule of Losses for OTI would put upward pressure on the TSGLI premium rate in the long term. While program surplus can be used to supplement this deficit in the short term, it is necessary for the program to maintain a sufficient fund balance to guard against the risk of future conflicts or events resulting in significant injuries that may cause spikes in claims.

Temporary and Permanent Injuries

VA explained in the proposed rulemaking that leaving the shorter payment intervals as they currently are codified could “potentially result in higher payout amounts to individuals with severe but temporary injuries than those paid to injured servicemembers who have permanent injuries.” 89 FR at 59866. As required by 38 U.S.C. 1980A(j), VA has consulted with the uniformed services, and DoD does not support the inadvertent change to the payment standard. VA and DoD note that in the original TSGLI interim final rulemaking published on December 22, 2005 (70 FR 75940, 75943), VA stated, “As required by 38 U.S.C. 1980A(d), the amount of the payment in the schedule . . . is based on the severity of the member’s loss.” Severity includes not

only the length of recovery period for the loss but the nature of the injury itself, such as its permanence. Program experience demonstrates that the time periods of 15, 30, 60, and 90 days of loss of ADL due to traumatic brain injury (TBI) clearly indicate a severe injury with lasting impacts on the member's functions. However, the same cannot be said for the time period of 15 days of loss of ADL due to OTI. Since the inception of the program, denied claims that do not meet the time period of 30 days' loss of ADL due to OTI show less severe injuries of a more temporary nature, including bone fractures, lacerations, and torn ligaments. DoD and VA both agree that the initial justification for the payment standard should remain as valid rationale for maintaining the standard at the lower, instead of higher, payment amount.

VA Consultation with DoD not Required

NVLSP also commented that there was no legal mandate that VA follow DoD guidance following consultation with the uniformed services under 38 U.S.C. 1980A(j), and even if such consultation was required, there is no evidence that DoD has publicly stated their opposition to the change in standard from the 2023 final rulemaking. First and foremost, 38 U.S.C. 1980A(j) does not require DoD to provide public statements as to the nature of the consultation or position prior to VA implementing TSGLI rulemaking. VA supports DoD's ongoing consultation on the TSGLI regulations as the program evolves because, although VA may promulgate TSGLI regulations, it is within the exclusive purview of the uniformed services to certify TSGLI claims, and VA plays no role in the adjudication process under 38 U.S.C. 1980A(f). Furthermore, DoD staff meet with VA staff and other Department officials each year as required by statute (38 U.S.C. 1974), and DoD involvement in TSGLI warrants a fair measure of deference from VA when evaluating and responding to feedback from DoD. Adopting regulations that contradict DoD feedback may not only be costly and inconsistent with actuarially sound business principles but also would not be aligned with improvements to the

customer experience for the TSGLI program, which were implicit in the purpose, design, and intent of the TSGLI Year Ten Review.

Additionally, in the case of the regulatory publication error in March 2023, the uniformed services under DoD were the first to identify the issue in late Spring 2023 and raise the concern to VA that this change was never contemplated during the intensive collaboration with DoD and the services in the TSGLI Year Ten Review. Their concern arose from whether VA had made a change in OTI vs. TBI losses related to severity of injury in opposition to the long-standing rationale of the program they understood and supported. VA assured DoD and the uniformed services that the change was an inadvertent typographical error, and no change had been intended.

Based on the foregoing, VA adopts the proposed rule, without change, as a final rule.

Executive Orders 12866, 13563, and 14192

VA examined the impact of this rulemaking as required by Executive Orders 12866 (Sept. 30, 1993) and 13563 (Jan. 18, 2011), which direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. The Office of Information and Regulatory Affairs has determined that this final rule is not a significant regulatory action under EO 12866.

Through this rulemaking, VA will restore the intended payment schedule for TSGLI benefits, thereby preventing confusion and unnecessary re-processing of claims. Absent this rulemaking, VA staff would continue to spend more time adjudicating appeals and handling inconsistencies from the current payment structure. While VA is unable to quantify measurable cost savings, these qualitative benefits will generate positive outcomes to society, such as reductions in burden and confusion among stakeholders. This final rule is a deregulatory action under Executive Order 14192 as it

removes an unintended burden and provides a net positive benefit to society.

Economic Impact: There are no costs or savings associated with this final rule. This rule ensures the TSGLI is managed according to actuarially sound principles, maintaining the TSGLI premium at a low rate. TSGLI is funded by the premiums that Service members pay for TSGLI coverage, and as such, there will be no cost to the Government with this final rulemaking.

Regulatory Flexibility Act

The Secretary hereby certifies that this 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 overall impact of this final rule would be of no benefit or detriment to small businesses. 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

This final rule will not 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.

Paperwork Reduction Act

Although this final rule contains collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3521), there are no provisions associated with this rulemaking constituting any new collection of information or any revisions to the existing collection of information. The collection of information for 38 CFR 9.21 is currently approved by the Office of Management and Budget (OMB) and have been assigned OMB control number 2900-0919.

Assistance Listing

The Assistance Listing number and title for the program affected by this

document is 64.103, Life Insurance for Veterans.

Congressional Review Act

Pursuant to 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 38 CFR Part 9

Life insurance, Military personnel, Veterans.

SIGNING AUTHORITY

Douglas A. Collins, Secretary of Veterans Affairs, approved this document on October 8, 2025, 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.

Taylor N. Mattson,

Alternate Federal Register Liaison Officer, Department of Veterans Affairs.

For the reasons stated in the preamble, VA amends 38 CFR part 9 as set forth below:

**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. Amend § 9.21 by revising paragraphs (c)(20)(i) through (iv) to read as follows:

§ 9.21 Schedule of Losses.

* * * * *

(c) * * *

(20) * * *

(i) The amount payable at the 30th consecutive day of ADL loss is \$25,000.

(ii) The amount payable at the 60th consecutive day of ADL loss is an additional \$25,000.

(iii) The amount payable at the 90th consecutive day of ADL loss is an additional \$25,000.

(iv) The amount payable at the 120th consecutive day of ADL loss is an additional \$25,000.

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