

TITLE 34. PUBLIC FINANCE
PART 3. TEACHER RETIREMENT SYSTEM OF TEXAS
CHAPTER 41. HEALTH CARE AND INSURANCE PROGRAMS
SUBCHAPTER A. RETIREE HEALTH CARE BENEFITS (TRS-CARE)

34 TAC §41.17

The Board of Trustees of the Teacher Retirement System of Texas (TRS) proposes new §41.17 (relating to Limited-time Enrollment Opportunity for Medicare-eligible Retirees) under Subchapter A (relating to Retiree Health Care Benefits (TRS-CARE)) of Chapter 41 in Part 3 of Title 34 of the Texas Administrative Code.

BACKGROUND AND PURPOSE

The trust fund of the Texas Public School Retired Employees Group Benefits Program (“TRS-Care”), administered under Chapter 1575 of the Insurance Code, has experienced growth in recent years stemming from federal changes to Medicare, TRS' improved contracts with Medicare Advantage and Part D drug benefits, and other factors.

TRS received correspondence from legislative leadership directing TRS to use the growth in the TRS-Care fund to reduce premiums and allow for a one-time enrollment opportunity for eligible TRS-Care Medicare Advantage participants. TRS will be evaluating how to use the fund balance to accomplish these goals while maintaining the fund's long-term stability.

TRS is proposing this new §41.17 to provide a limited-time enrollment opportunity for unenrolled retirees, dependents, surviving spouses, and surviving dependent children in anticipation of the upcoming TRS-Care open enrollment period (which begins on October 1, 2024) and the reduced premiums that would take effect on the next plan year, which begins January 1, 2025.

Proposed new §41.17 implements the details of this limited-time enrollment opportunity, specifying who is eligible, when eligible individuals may enroll, and when coverage will be effective. Eligible retirees, dependents, surviving spouses, and surviving dependent children will be eligible to enroll beginning October 1, 2024, through March 31, 2026.

FISCAL NOTE

Don Green, TRS Chief Financial Officer, has determined that for each year of the first five years the proposed new rule will be in effect, there will be no foreseeable fiscal implications for state or local governments as a result of administering the proposed new rule. While opening the enrollment for otherwise eligible retirees, dependents, surviving spouses, and surviving dependent children increases the risk to the TRS-Care trust fund, that risk increase is offset by the premiums that new and existing enrollees will be paying for their coverage and other sources of income of the trust fund. Because health benefit plans are inherently risk-based businesses, this limited-time enrollment opportunity does not pose a risk to the trust fund that is atypical for its nature.

PUBLIC COST/BENEFIT

For each year of the first five years the proposed new rule will be in effect, Mr. Green has also determined that the public benefit anticipated as a result of adopting the new rule will be to provide guidance with respect to how the limited-time enrollment opportunity will be implemented. Mr. Green has also determined that there is no economic cost to entities required to comply with the proposed new rule. Further, Mr. Green has determined participants will incur a cost through the payment of premiums only if they choose to take advantage of this opportunity and enroll.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS

TRS has determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities as a result of the proposed new rule. Therefore, neither an economic impact statement nor a regulatory flexibility analysis is required under Government Code §2006.002.

LOCAL EMPLOYMENT IMPACT STATEMENT

TRS has determined that there will be no effect on local employment because of the proposed new rule. Therefore, no local employment impact statement is required under Government Code §2001.022.

GOVERNMENT GROWTH IMPACT STATEMENT

TRS has determined that for the first five years the proposed new rule is in effect, the proposed new rule will not create or eliminate any TRS programs; will not require the creation or elimination of employee positions; will not require an increase or decrease in future legislative appropriations to TRS; will not eliminate any fees currently paid to TRS; will not expand, limit, or repeal an existing regulation; will not increase or decrease the number of individuals subject to the rule's applicability; and will not affect the state's economy.

This proposal creates a new regulation. Proposed §41.17 is a new rule through which TRS, as trustee of the Texas Public School Retired Employees Group Benefits Act created under Chapter 1575 of the Insurance Code, will provide a limited-time enrollment opportunity for eligible retirees, dependents, surviving spouses, and surviving dependent children that did not enroll when they had the opportunity to do so.

TAKINGS IMPACT ASSESSMENT

TRS has determined that there are no private real property interests affected by the proposed new rule; therefore, a takings impact assessment is not required under Government Code §2007.043.

COSTS TO REGULATED PERSONS

TRS has determined that Government Code §2001.0045 does not apply to the proposed new rule because it does not impose a cost on regulated persons.

COMMENTS

Comments may be submitted in writing to Brian Guthrie, TRS Executive Director, 1000 Red River Street, Austin, Texas 78701-2698. Written comments must be received by TRS no later than 30 days after publication of this notice in the *Texas Register*.

STATUTORY AUTHORITY

The new rule is being proposed under the authority of Chapter 1575, Insurance Code, which establishes the Texas Public School Retired Employees Group Benefits Act (TRS-Care), §1575.052, which allows the trustee to adopt rules, plans, procedures, and orders reasonably necessary to implement Chapter 1575, including periods of enrollment and selection of coverage and procedures for enrolling and exercising options under the group program; Chapter 825 of the Government Code, which governs the administration of TRS; and Government Code §825.102, which authorizes the Board of Trustees to adopt rules for the transaction of the business of the Board.

CROSS-REFERENCE TO STATUTE

The proposed new rule affects Chapter 1575, Insurance Code, which establishes the Texas Public School Retired Employees Group Benefits Program (TRS-Care), §1575.052, which allows the trustee to adopt rules, plans, procedures, and orders for periods of enrollment and selection of coverage and procedures for enrolling and exercising options under the group program.

§41.17. Limited-time Enrollment Opportunity for Medicare-eligible Retirees

(a) Eligibility.

(1) Retiree. A retiree who is eligible to enroll in the Medicare Advantage plan offered under TRS-Care in accordance with Section 1575.1582(b), Insurance Code (hereinafter referred to as “MA plan”) and who is not currently enrolled in the MA plan, may enroll in the MA plan if the retiree applies for enrollment during the limited-time enrollment period. For the purpose of this section, the limited-time enrollment period is the period that begins on October 1, 2024, and extends through March 31, 2026.

(2) Surviving spouses or surviving dependent children. If a retiree has passed away, the retiree’s surviving spouse or the retiree’s surviving dependent child may enroll under this section, as long as:

(A) The surviving spouse or surviving dependent child qualifies as such under Section 1575.003, Insurance Code, and

(B) The surviving spouse or surviving dependent child is eligible for Medicare and is eligible to enroll in the MA plan offered under TRS-Care in accordance with Section 1575.1582(b), Insurance Code.

(3) Dependents. If the retiree’s or surviving spouse’s application to enroll under this section is approved, the retiree or surviving spouse may also enroll any eligible dependents.

(4) Single enrollment opportunity. A retiree, surviving spouse, or surviving dependent child may only enroll one time during the limited-time enrollment period.

(b) Effective Date of Coverage.

(1) January 1, 2025. For those applications received and approved before January 1, 2025, coverage shall be effective on January 1, 2025.

(2) After January 1, 2025. For those applications received after January 1, 2025, the effective date of coverage shall be the first day of the month after TRS receives and approves the request to enroll.

(3) Range. In no event shall the effective date be prior to January 1, 2025, or after April 1, 2026.

CERTIFICATION

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.