

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 §41.12

The Board of Trustees of the Teacher Retirement System of Texas (TRS) proposes to amend §41.12 (relating to Eligibility for the Alternative Plan for Medicare-Eligible Participants) 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 TRS-Care Alternative Plan offered under §1575.158(d) and administered under Chapter 1575 of the Insurance Code no longer offers value to our retirees and their eligible dependents due to different factors.

Under §1575.158(d) of the Insurance Code, the trustee has the discretion to create an alternative plan in addition to the Medicare Advantage plan with a Medicare prescription drug plan (TRS-Care MA) under § 1575.158(c), if the trustee deems the TRS-Care MA to not be appropriate for the program. Exercising this authority, TRS established the TRS-Care Alternative Plan in 2018, as outlined in 34 TAC §41.12.

In 2018, the TRS-Care MA had a limited network of providers in rural areas, and the TRS-Care Alternative Plan addressed the members who did not have adequate access to providers. Since then, TRS carriers have continued to build out and expand the TRS-Care MA network significantly, and there have been no members participating in the TRS-Care Alternative plan due to lack of provider access for several years.

Additionally, when TRS initially created the TRS-Care Alternative Plan, it aimed to offset the financial burdens imposed on Medicare-eligible TRS members by certain federal laws. Participation in TRS-Care Medicare Advantage has always required maintaining Part B coverage, with the exception of those enrolled in the Alternative Plan. The TRS-Care Alternative Plan was designed to protect members who found enrolling in Medicare Part B cost-prohibitive, allowing them to participate in the TRS-Care Alternative Plan. However, with the repeal of the federal laws that originally spurred the creation of the plan, the TRS-Care Alternative Plan has lost its practical purpose.

To the contrary, forgoing Medicare Part B coverage may now be more disadvantageous for our members. Members who do not elect Part B coverage when they first become eligible face increasingly higher premiums over time. By phasing out the TRS-Care Alternative Plan, TRS aims to encourage new enrollees to TRS-Care to secure Part B coverage promptly. This approach not only benefits TRS members by helping them avoid escalating premiums, but also helps mitigate unnecessary risks to the TRS-Care trust fund.

TRS proposes to amend §41.12 to close new enrollment to the TRS-Care Alternative Plan beginning January 1, 2026. All TRS-Care Alternative Plan members who enrolled in the plan before that date may remain in the plan. However, from that date forward, Medicare-eligible members who desire to participate in the TRS-Care Program must enroll and maintain Medicare Part B coverage to join the TRS-Care MA. The proposed amendments to §41.12 outline these enrollment requirements and ensure compliance for Medicare-eligible members.

FISCAL NOTE

Don Green, TRS Chief Financial Officer, has determined that for each year of the first five years the proposed amendments to §41.12 will be in effect, there will be no foreseeable negative fiscal implications for state governments and no foreseeable fiscal implications for local governments as a result of administering proposed amended §41.12. Phasing out the TRS-Care Alternative Plan for new enrollees will enhance the financial stability of the TRS-Care trust fund for the over 214,000 participants in the plan. The TRS-Care Alternative Plan is significantly more costly than the TRS-Care MA, which is the primary health benefit program TRS offers to Medicare-eligible individuals.

PUBLIC COST/BENEFIT

For each of the first five years proposed amended §41.12 is in effect, Mr. Green anticipates a significant public benefit. The change will encourage Medicare-eligible individuals to enroll in Part B coverage when they first become eligible, potentially saving them from burdensome cost that increase over time if enrollment is delayed. Mr. Green has also determined that entities required to comply with the proposed amended rule will not incur any economic cost. Mr. Green has determined participants will incur a cost related to Part B and/or TRS-Care MA premiums if they choose to enroll in these programs. Amending §41.12 will be a public benefit because it will enhance the stability of the TRS-Care trust fund.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS

TRS has determined that proposed amended §41.12 will not have any adverse economic effect on small businesses, micro-businesses, or rural communities. As a result, the requirements for an economic impact statement or a regulatory flexibility analysis under Government Code §2006.002 do not apply in this case.

LOCAL EMPLOYMENT IMPACT STATEMENT

TRS has determined that there will be no effect on local employment because of the proposed amended 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 proposed amended §41.12 is in effect, proposed amended §41.12 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 amend 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. Amending §41.12 will place limits on access to TRS-Care that were not previously stated in the rule.

This proposal amends an existing regulation. The proposed changes to §41.12 modify the 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 phase out the current TRS-Care Alternative Plan. Specifically, the amended rule will close the plan to new members starting on January 1, 2026. The amendment will also add the requirement that members who desire to participate in the TRS-Care Program must enroll and maintain Medicare Part B coverage to join the TRS-Care MA plan.

TAKINGS IMPACT ASSESSMENT

TRS has determined that there are no private real property interests affected by the proposed amended 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 amended rule because it does not impose a cost on regulated persons.

COMMENTS

Comments may be submitted in writing to Brian Guthrie, TRS Executive Director, P.O. Box 149676, Austin, Texas 78714-0185. Written comments must be received by TRS no later than 30 days after publication of this notice in the *Texas Register*.

STATUTORY AUTHORITY

The proposed amended rule is authorized under Chapter 1575 of the Insurance Code, which establishes the Texas Public School Retired Employees Group Benefits Act (TRS-CARE). Specifically, §1575.052 grants the trustee the authority to adopt rules, plans, procedures, and orders reasonably necessary to implement Chapter 1575, including those related to enrollment periods coverage selection, and procedures for enrolling and exercising options within the group program. Additionally, the proposed amended rule is supported by Chapter 825 of the Government Code, which governs the TRS administration, and §825.102 of the Government Code, which authorizes the Board to adopt rules for the transaction of the business of the Board.

CROSS-REFERENCE TO STATUTE

The proposed amended rule implements the Insurance Code § 1575.052, related to Authority to Adopt Rules and Procedures; Other Authority, which authorizes the trustee to adopt rules, plans, procedures, and orders reasonably necessary to implement Chapter 1575, including periods of enrollment and coverage selection and outlines the procedures for enrolling and exercising options under the group program.

<rule>

§41.12. Relating to ~~[Eligibility for]~~ the Alternative Plan for Eligible Participants and Medicare Part B requirement

(a) Enrollment in the Alternative Plan. Up to and including December 31, 2025, an ~~[An]~~ individual is eligible to enroll in the Alternative Plan offered under TRS-Care if:

(1) the individual is eligible to enroll in TRS-Care; and

(2) the individual is eligible for Medicare and either:

(A) does not have reasonable access to a particular provider, as determined by TRS; or

(B) as of January 1, 2018, does not have Medicare Part B coverage and the individual's ability to obtain Medicare Part B coverage is cost prohibitive, as determined by TRS.

(b) Closing Enrollment in the Alternative Plan. Effective January 1, 2026, new enrollees under TRS-Care will no longer be eligible for the Alternative Plan described under subsection (a) of this section.

(c) Medicare Part B Requirement. Effective January 1, 2026, retirees, dependents, surviving spouses, and surviving dependent children who are eligible to enroll in Medicare and desire to enroll in or stay in a TRS-Care plan must have and maintain Medicare Part B coverage.

(1) High Deductible Health Plan Transition. Effective January 1, 2026, retirees, dependents, surviving spouses, and surviving dependent children enrolled in the high deductible health plan offered under TRS-Care who turn age 65 and are eligible to enroll in Medicare must have and maintain Medicare Part B coverage to transition into the Medicare Advantage plan and the Medicare prescription drug plan offered under TRS-Care. These enrollees have until the end of their Medicare Initial Enrollment Eligibility Period (IEP) to secure Medicare Part B coverage in order to transition into the Medicare Advantage plan and the Medicare prescription drug plan offered under TRS-Care. Enrollees that fail to secure Medicare Part B coverage within this period shall be terminated from the TRS-Care program.

(2) Continued Enrollment in the TRS-Care Medicare Advantage Plan. Effective January 1, 2026, retirees, dependents, surviving spouses, and surviving dependent children enrolled in the Medicare Advantage Plan offered under TRS-Care who terminate or lose their Medicare Part B coverage no longer meet TRS-Care eligibility criteria and shall be terminated from the TRS-Care program as soon as TRS is notified of the Part B coverage loss by CMS.

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.