

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 §41.15

The Board of Trustees of the Teacher Retirement System of Texas (TRS) proposes new §41.15 (relating to Optional Dental Benefits Plan) 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 purpose of this proposed new rule is to implement Senate Bill (S.B.) 1854, 88<sup>th</sup> Legislature, Regular Session, 2023.

S.B. 1854 amended Chapter 1575 of the Insurance Code (TRS-Care) by adding a new Section 1575.1601, concerning Group Benefits for Dental and Vision Care, requiring the Board of Trustees (“the trustee”) to establish or contract for and make available under the group program an optional plan that provides coverage for dental care.

Proposed new §41.15 implements Insurance Code §1575.1601 by establishing the rules that will apply to the optional dental benefits plan, including eligibility terms, definition of the plan year, enrollment and disenrollment terms, payment of contributions towards coverage, effective dates of coverage, expulsion for fraud, and competitive bidding.

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.

PUBLIC COST/BENEFIT

For each year of the first five years the proposed new rule will be in effect, Mr. Green also has determined that the public benefit anticipated as a result of adopting the new rule will be to provide guidance with respect to TRS’ implementation of the optional dental plan required under new Insurance Code §1575.1601. 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 participate in an optional dental benefits plan and S.B. 1854 cannot be implemented without these premium payments.

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 §41.15 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 establish a new optional dental benefits plan of group coverage under Section 1575.1601.

#### 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; Chapter 825, Texas Government Code, which governs the administration of TRS, §825.102, which authorizes the board of trustees to adopt rules for the transaction of the business of the board; and Senate Bill (S.B.) 1854 as enrolled by the 88<sup>th</sup> Legislature, Regular Session, on May 26, 2023 and effective on September 1, 2023.

## CROSS-REFERENCE TO STATUTE

The proposed new rule implements Insurance Code §1575.1601, concerning Group Benefits for Dental and Vision Care.

### §41.15. Optional Dental Benefits Plan

#### (a) Establishment.

(1) In accordance with Section 1575.1601, Insurance Code, TRS makes available to individuals under the TRS-Care program an optional plan that provides coverage for dental care (hereinafter referred to as an “optional dental benefits plan”).

(2) TRS may offer an optional dental benefits plan through an insurance carrier or the optional dental benefits plan may be self-funded.

(3) An optional dental benefits plan may have one or more benefit designs for participants to choose from, as determined by TRS.

#### (b) Eligibility.

(1) Only retirees, dependents, surviving spouses, and surviving dependent children, as defined under Chapter 1575, Insurance Code, are eligible to enroll in an optional dental benefits plan (hereinafter referred to as “eligible members”).

(2) Individuals shall be eligible for an optional dental benefits plan under the same requirements as described in §41.10 of this title (relating to Initial Enrollment Periods for the Health Benefit Program under the Texas Public School Retired Employees Group Benefits Act (TRS-Care)).

(3) Eligible members may enroll in an optional dental benefits plan even if they are not enrolled or applying for enrollment in any other TRS-Care plan at the time of enrollment in an optional dental benefits plan.

(4) If an eligible member is eligible for an optional dental benefits plan as a retiree and also as a dependent of another retiree, the retiree may elect to participate in an optional dental benefits plan as a retiree or as a dependent but cannot participate as both. An eligible member must choose to participate as a retiree or as a dependent.

(c) Plan Year. The plan year for an optional dental benefits plan is from January 1 to December 31 (hereinafter referred to as “plan year”).

#### (d) Enrollment and Disenrollment.

(1) Enrollment. Eligible members desiring to enroll in an optional dental benefits plan must do so within the open enrollment period or during an additional enrollment opportunity.

(A) Open Enrollment.

(i) An eligible member may enroll in an optional dental benefits plan during an open enrollment period established by TRS.

(ii) On behalf of the trustee, the executive director or a designee may prescribe open enrollment periods and the conditions under which eligible members may enroll during an open enrollment period.

(B) Additional Enrollment Opportunities. Individuals shall have the same additional enrollment opportunities for an optional dental benefits plan as those provided under §41.2(a)-(c) of this title (relating to Additional Enrollment Opportunities).

(2) Disenrollment. Eligible members may only disenroll from an optional dental benefits plan during the open enrollment period, with the exception that an eligible member may disenroll during a special enrollment opportunity as described by §41.2(b) of this title.

(3) Enrollment and Disenrollment Process. Eligible members must follow the enrollment and disenrollment processes established by TRS.

(e) Payment of Contributions.

(1) Retirees, surviving spouses, and surviving dependent children, or their representatives (collectively “participants”) shall pay monthly contributions, as set by TRS, for their and their dependents’ participation in an optional dental benefits plan and may, at TRS’ sole discretion, be required to do so through deductions from the participant’s TRS annuity payment or through direct payments to TRS or its designee.

(A) In accordance with Section 1575.153, Insurance Code, the participant must, in writing, authorize the trustee to deduct the entirety of the participant’s contributions for the participant’s coverage under the TRS-Care plan(s) from the participant’s TRS annuity payment.

(B) If the amount of the participant’s TRS annuity payment is not enough to cover all of the participant’s contributions for coverage under the participants TRS-Care plan(s), the participant shall be directly billed by TRS or its designee.

(2) If a participant is required to pay their contributions for an optional dental benefits plan directly to TRS or its designee, failure to timely pay the full amount of a required contribution for coverage will result in termination of the optional dental benefits plan. Participants or eligible members that have lost their coverage due to lack of payment of contribution for coverage may be subject to recoupment by TRS of outstanding contribution amounts, penalties, and be subject to reenrollment conditions prior to reenrollment.

(f) Effective Date of Coverage.

(1) An optional dental benefits plan shall follow the same effective dates of coverage that apply under §41.7(a)–(h) and (j) of this title (relating to Effective Date of Coverage).

(2) In addition, if an eligible member enrolls during a TRS open enrollment period as described in subsection (d)(1)(A) of this section, the effective date of coverage shall be the first day of the plan year following the end of the open enrollment period.

(g) Expulsion for fraud. Expulsion for fraud from an optional dental benefits plan shall follow the same process as described in §41.14 of this title (relating to Expulsion from TRS-Care for Fraud).

(h) Competitive Bidding.

(1) Bid procedures for an optional dental benefits plan shall follow the same process as described in §41.9 of this title (relating to Bid Procedure).

(2) TRS may award separate contracts for different aspects in the administration of an optional dental benefits plan, such as insurance coverage, claims administration, utilization review services, administrative services, and ancillary services.

(3) Each bidder must comply with the minimum qualifications contained in the applicable solicitation from TRS.

#### 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.