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TRICARE in Divorce

FEDERAL ELIGIBILITY · FINAL-DECREE TIMING
CHCBP · RESERVE COMPONENT TRAPS

BOTTOM LINE

TRICARE eligibility is set by federal law and recorded in DEERS. A decree cannot create, extend, transfer, or assign it. But eligibility is measured on the date the divorce becomes final, so the timing of entry can materially change a former spouse's health coverage.

The eligibility rules

RULE	FEDERAL TEST AT FINAL DECREE	WHAT IT MEANS
20/20/20	20 years of creditable service, 20 years of marriage, and 20 years of overlap.	The former spouse may qualify as their own sponsor for as long as all continuing requirements are met. Benefits, options, and costs generally track those of a retiree family member.
20/20/15	20 years of creditable service, 20 years of marriage, and at least 15 but fewer than 20 years of overlap.	For divorces final on or after September 29, 1988, up to one year of TRICARE begins on the divorce date. A decree cannot extend that statutory period.
Below 20/20/15	One or more of the three thresholds is not met.	TRICARE generally ends on the date the divorce becomes final. Review CHCBP and civilian options. A narrow exception exists in certain dependent-abuse cases.

Continuing conditions. The former spouse must remain unremarried and cannot purchase and be covered by an employer-sponsored health plan. A later end to a remarriage does not restore the original former-spouse TRICARE eligibility, although eligibility can be gained under a new sponsor spouse. Medicare rules may also apply.

The date that matters

Use the date of the final decree, not the separation date, filing date, settlement date, or date retired pay is divided. Until divorce is final, a separated spouse generally remains a spouse for TRICARE purposes.

TIMING EXAMPLE

Assume 19 years of marriage, 20 years of creditable service, and 18 years of overlap. A final decree now means no continuing former-spouse TRICARE. A decree after 12 more months may satisfy 20/20/15. After 24 more months it may satisfy 20/20/20, assuming creditable service and overlap continue. Local law and case posture control whether entry can be delayed.

RESERVE / GUARD ALERT

Do not treat calendar years as creditable service. For a gray-area Reserve retiree under age 60, a 20/20/20 former spouse generally has no military health care until the sponsor reaches, or would have reached, age 60. For a 20/20/15 former spouse, the one-year eligibility period still runs from the divorce date. If the sponsor does not reach age 60 during that year, no TRICARE health coverage becomes available under this rule. Check component records and 32 CFR 161.19(a)(2), (b)(2).

Do not mix up the federal tests

TEST OR DEADLINE	WHAT IT CONTROLS	WHAT IT DOES NOT CONTROL
20/20/20 or 20/20/15	Former-spouse TRICARE eligibility and duration.	Military retired-pay division, DFAS direct payment, or SBP.
10/10 rule	Whether DFAS may directly pay a retired-pay property award.	State-court divisibility, entitlement to an award, or TRICARE eligibility.
One-year SBP filings	Election or deemed election of a former-spouse survivor annuity.	Health coverage or the former spouse's share of retired pay while both parties live.

Post-decree checklist

- [ ] **Establish eligibility in DEERS promptly.** The former spouse should take the marriage certificate, final decree, and DD Form 214 or Statement of Service to an ID card office. Eligible former spouses are recorded under their own SSN or DoD Benefits Number.
- [ ] **If CHCBP is needed, act within 60 days.** Compare Marketplace coverage at the same time; loss of coverage may open a Marketplace Special Enrollment Period, usually 60 days before or after the loss.
- [ ] **Check the children separately.** The sponsor's biological and adopted children generally remain eligible after divorce. Unadopted stepchildren generally lose eligibility when the divorce is final.
- [ ] **Keep written confirmation.** Do not treat a recital in the agreement as proof that DEERS, the service component, or CHCBP has accepted eligibility.

Four planning moves before the agreement is signed

1 **Verify the three clocks and the sponsor's status**
Obtain the marriage certificate, DD Form 214 or a Statement of Service, and any Reserve point statement or retirement order. Confirm active-duty, regular retired, Reserve/Guard, and retired-pay status. Do not rely on a party's estimate of service or overlap.

2 **Price replacement coverage instead of promising TRICARE**
Compare premiums and expected out-of-pocket costs for CHCBP, Marketplace or employer coverage, and Medicare-based coverage when relevant. Model duration, medical inflation, tax treatment, and termination events. Use the result to support a property or support solution permitted by state law.

3 **Put the CHCBP deadline on counsel's calendar**
CHCBP is a separate, premium-based program administered by Humana Military. It provides the same coverage as TRICARE Select, including prescriptions. An eligible former spouse must purchase it within 60 days after losing TRICARE. Coverage is retroactive to the day after TRICARE ends, and premiums are paid quarterly. Former-spouse coverage is generally available for up to 36 months from the later of divorce or expiration of 20/20/15 coverage. Some former spouses meet narrow rules for coverage beyond 36 months. Confirm eligibility directly with Humana Military at 800-444-5445.

4 **Address SBP on a separate track**
The Survivor Benefit Plan protects income after the member's death; it does not preserve health coverage. If an order requires former-spouse SBP, the former spouse should independently submit DD Form 2656-10 within one year of the order requiring coverage. The member has separate election duties. Calendar both tracks.

Drafting concept

AVOID	*"Husband shall maintain Wife on TRICARE."*
BETTER	Acknowledge that federal law and DEERS control eligibility. Then state the payment or reimbursement remedy if the former spouse is ineligible or later loses coverage, including amount or formula, duration, termination events, and tax treatment. Adapt the provision to state law and the facts.

WHEN TO INVOLVE CLEARWATER

Bring us in when a case is near a 20/20/15 or 20/20/20 threshold; when Reserve or Guard service makes the creditable-service analysis uncertain; when counsel needs a defensible value for lost coverage; or when military retired pay, SBP, and health-coverage terms must work together.

PRIMARY SOURCES REVIEWED

TRICARE: Former Spouses | 10 U.S.C. 1072 | 32 CFR 161.19 | TRICARE: CHCBP | 32 CFR 199.20 | DFAS: USFSPA Legal | DFAS: SBP Deemed Election | HealthCare.gov: Special Enrollment Period

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