

## **QUESTIONS AND ANSWERS ABOUT UNREARRIED FORMER SPOUSES AND THEIR TRICARE AND OTHER ENTITLEMENTS**

1. Who is the DEERS Sponsor for 20/20/20 Unremarried Former Spouses?
  - a. ANSWER: Since Oct 1, 2003, eligible USFSPA 20/20/20 Former Spouses are their own sponsor for DEERS enrollment. Their SSNs and not those of their former Military Sponsor appear on their Military ID Cards. (¶3.1.1, AFI 36-3026\_IP (17 June 2009))
  
2. Can a 20/20/20 Former Spouse enroll their dependent child or legal ward into DEERS like their former Military Sponsor?
  - a. ANSWER: No. The Former Spouse's DEERS status is already that of a dependent, and they do not have the ability to enroll their dependents under DEERS. (¶3.1.1, (Note), AFI 36-3026\_IP (17 June 2009))
  
3. If the former Military Sponsor is allowed to retire under an Early Retirement Program (with less than 20 years of active service), will the Former Spouse ever be entitled to benefits such as TRICARE, TRICARE for Life, Commissary and Base Exchange?
  - a. ANSWER: No. The Former Spouse fails to meet the statutory criteria in 10 USC §1072 and is legally not a 20/20/20 Former Spouse. ((¶3.1.2, AFI 36-3026\_IP (17 June 2009))
  
4. Same question as above, but the former Military Sponsor is given Medical Disability (Chapter 61) Retirement?
  - a. ANSWER: No. The Former Spouse fails to meet the statutory criteria in 10 USC §1072 and is legally not a 20/20/20 Former Spouse. ((¶3.1.3, AFI 36-3026\_IP (17 June 2009))
  
5. Is an Unremarried Former Spouse eligible for TRICARE if he/she is eligible for employer provided health insurance, but is just not enrolled? (Example: FS is also a federal civilian employee eligible for FEHBs.) Does the fact such insurance is available to them mean they can not elect to have TRICARE as their primary health insurance?
  - a. ANSWER: As long as the Unremarried Former Spouse is not ENROLLED IN an employer provided health insurance program, the merely because they are "eligible to enroll" does not deny them TRICARE coverage. (Table 3.1, Additional Requirements, AFI 36-3026\_IP (17 June 2009))
  
6. What if the Unremarried Former Spouse enrolls in an employer provided health insurance plan and then dis-enrolls? Can he/she again become eligible for TRICARE?

- a. ANSWER: Yes, an Unremarried Former Spouse can request TRICARE enrollment retroactive to the disenrollment of the employer provided coverage. (Table 3.1, Additional Requirements, AFI 36-3026\_IP (17 June 2009))
  
7. During the period of their marriage, the Military Spouse has served on active duty, was in the Reserves for a few years, and for the past 10 years has been in the National Guard. He just received his “20 Good Years” letter for Retirement. He is age 53. If we should divorce, will I be a 20/20/20 Former Spouse and can I get TRICARE immediately upon our being divorced?
  - a. ANSWER: No, because Reservists and National Guard personnel do not become eligible for TRICARE until they start receiving Retired Pay (Retainer Pay), which is for most Reserve Component individuals not until their 60<sup>th</sup> birthdays. Unremarried 20/20/20 Former Spouses may receive a USFSPA ID Card (DD Form 1173-1) authorizing them shopping privileges at the Commissary and Base Exchanges, and MWR Facilities. When the former Military Sponsor becomes entitled to Military Retired Pay (or would have become eligible except because of their death), the Unremarried 20/20/20 Former Spouse will then receive a Military ID Card authorizing use of Military Treatment Facilities and TRICARE effective on the date their Former Military Sponsor would have turned 60. ((¶3.2.1.1. & ¶3.2.1.2. AFI 36-3026\_IP (17 June 2009))
  
8. Colonel Tom has been in the Air Force for 28 years. After serving 8 years of initial active duty, he transferred to the Reserves for the remaining 20 years of his career. His wife, Betty, married him two years after he was commissioned. Four years ago Colonel Tom received his “20 Good Years” letter. Last year he filed for divorce from Betty and started a four year tour of active duty, which if he successfully completes it will allow him to have enough time to request a “regular retirement” from the Air Force. Will Betty be a 20/20/20 Former Spouse if they are immediately divorced?
  - a. ANSWER: It could go either way! A close review of Colonel Tom’s Reserve Retirement Point Summary Sheet might well show that Betty has sufficient “active duty” credits during the marriage to be considered a 20/20/20 Former Spouse should her husband seek a regular retirement under one of the provisions of 10 USC Chapter 367 (Army); Chapter 571 (Navy & USMC); or, Chapter 867 (Air Force). If Betty does qualify as a 20/20/20 Former Spouse based upon Colonel Tom’s active duty service occurring during the marriage, then Betty will commence receiving her TRICARE benefits immediately upon divorce. But if Betty does not qualify as a 20/20/20 Former Spouse in the event Colonel Tom is granted a regular retirement, then the fact she might have otherwise been a 20/20/20 Former Spouse had Colonel Tom sought a non-regular retirement will not help her in qualifying to receive TRICARE benefits. In other words, if

Colonel Tom receives a regular retirement at say age 55, Betty would not become a 20/20/20 Former Spouse when he would have achieved his 60<sup>th</sup> birthday and started to receive his non-regular retirement. Betty's eligibility for TRICARE benefits are determined by the actual type of retirement (i.e., regular vs. non-regular) her Military Sponsor received and not the one she could have benefited from but did not elect. ((¶3.2.1.1. & ¶3.2.1.1. AFI 36-3026\_IP (17 June 2009))

- b. BUT.....If Colonel Tom never becomes eligible for a regular retirement, a similar analysis would have to be undertaken to determine if Betty would be a 20/20/20 Former Spouse had Colonel Tom later sought a non-regular (Reserve) retirement under one of the provisions of 10 USC Chapter 1223 at the time he achieved age 60. ((¶3.2.1.1. & ¶3.2.1.2. AFI 36-3026\_IP (17 June 2009))
  - c. AND.... If Betty is determined to be a 20/20/20 Former Spouse based upon Colonel Tom's expected non-regular retirement (at age 60) and after the divorce and before Colonel Tom is 60 he is called to active duty for 31 days or longer, Betty will become eligible for TRICARE coverage during such period of active duty service even if they are divorced. ((¶3.2.1.3. AFI 36-3026\_IP (17 June 2009))
9. Does it matter if the Military Sponsor has not retired when the parties divorce as long as the *Former Spouse satisfies the 20/20/20 criteria at the time they are divorced*? What exactly are the "benefits" or "entitlements" a 20/20/20 Former Spouse receives?
- a. ANSWER: An Unremarried Former Spouse of a Military Sponsor eligible for a regular retirement, who satisfies the criteria as a 20/20/20 Former Spouse set forth in Table 3.2 of AFI 36-3026\_IP (17 June 2009), will receive immediately upon divorce Medical Service (TRICARE), Commissary, Exchange, and access to MWR facilities. ((¶3.3.1., AFI 36-3026\_IP (17 June 2009)) If the Military Sponsor is instead eligible for a non-regular retirement, then they will receive only Commissary, Exchange and MWR benefits (i.e., no TRICARE) until the Military Sponsor is age 60; or, if the Military Sponsor is deceased when that Sponsor would have become age 60. ((¶3.2.1.1. & ¶3.2.1.2. & ¶3.3.1 and Table 3.2. of AFI 36-3026\_IP (17 June 2009))
10. What about 15 year Unremarried Former Spouses? Are there some special rules that apply to them?
- a. ANSWER: Yes, there are several rules for 20/20/15 Former Spouses. They are addressed at ¶3.3.2. & Table 3.3 and ¶3.3.3. & Table 3.4 of AFI 36-3026\_IP (17 June 2009))
    - i. Unremarried Former Spouses who satisfy the 20/20/15 Rule and were **divorced prior to April 1, 1985** are essentially treated as if they were a

20/20/20 Unremarried Former Spouses for purposes of TRICARE and other entitlements.

- ii. Unremarried Former Spouse who satisfy the 20/20/15 Rule and were divorced **after April 1, 1985 but before September 29, 1988**, get two (2) years of TRICARE and other entitlements. (NOTE: This provision has no present application as anyone who could qualify for it has already used their benefits.) (See Note to ¶3.3.3., AFI 36-3026\_IP (17 June 2009))
- iii. Unremarried Former Spouse who satisfy the 20/20/15 Rule and were **divorced after September 29, 1988** receive one (1) year of TRICARE and other benefits from the date of their divorce from the Military Sponsor. (Note: A 20/20/15 Former Spouse can transition to “Indefinite CHCBP” Coverage after their one year of TRICARE benefit.)

11. Are there any special provisions for Abused Former Spouses?

a. ANSWER: Yes, there are actually two provisions discussed for Abused Unremarried Former Spouses:

- i. Those of Retirement Eligible Members who were married to the Military Sponsor for at least 10 years during creditable service and where the Military Sponsor is being discharged as a result of abuse of the Former Spouse and the abused spouse is receiving an annuity (portion of Military Retired Pay under 10 USC §1408). (Sometimes called 10/20/10 Former Spouses) (See: ¶3.3.4. & Table 3.5 of AFI 36-3026\_IP (17 June 2009)). 10/20/10 These Unremarried Former Spouses receive TRICARE, Commissary, Exchange, and MWR benefits for as long as they meet the eligibility criteria under ¶3.4 and Table 3.5 of AFI 36-3026\_IP (17 June 2009).
- ii. Abused Unremarried Former Spouses eligible for Transitional Compensation where the Military Sponsor is being discharged due to dependent abuse. (See: ¶3.3.5. & Table 3.6 of AFI 36-3026\_IP (17 June 2009)). These Unremarried Former Spouses are eligible for TRICARE, Commissary, Exchange, and MWR benefits until their remarriage and for as long as they are entitled to Transitional Compensation. (See also Table 5.3 of AFI 36-3026\_IP (17 June 2009))

12. When my first spouse and I divorced, I was determined to be a 20/20/20 Former Spouse, and I enjoyed TRICARE and Base Access privileges for several years. I then met and married a Military Retiree, and I then became his Military Dependent and had the same TRICARE and Base Access privileges as I did as a 20/20/20 Former Spouse. Now I found him cheating on me and that he never divorced his first wife before he married me! If my second husband and I either divorce or get our marriage annulled, can I get my

TRICARE and other privileges restored as a 20/20/20 Unremarried Former Spouse of my first husband?

- a. ANSWER: No. It was the act of being married, even though that marriage later ends in divorce or an annulment, that now denies you the ability to meet the statutory criteria of 10 USC §1072(2)(F) (2008). Any “remarriage” even though ending in divorce or annulment, will render you ineligible for the statutory TRICARE benefit; however, you may request reinstatement of Commissary, Base Exchange and MWR privileges. See: ¶3.9 AFI 36-3026\_IP (17 June 2009)

13. Where do eligible Unremarried Former Spouses go to obtain their TRICARE and other benefits?

- a. ANSWER: The initial verification of the Unremarried Former Spouse must be done by the parent service of the Military Sponsor. (See: ¶3.4. and ¶3.4.1. and Table 3.7 of AFI 36-3026\_IP (17 June 2009)). Table 3.7 provides the Point of Contact and Office Responsible for determining whether an Unremarried Former Spouse meet statutory requirements for being entitled to TRICARE and other federal benefits a 20/20/20; 20/20/15; 10/20/10; or, Transitional Compensation Eligible former spouse.

14. What documents should I have available with me when I seek determination as to my Unremarried Former Spouse entitlements?

- a. ANSWER: “If in doubt, bring it!!!” (See: ¶3.8 of AFI 36-3026\_IP (17 June 2009)) Bare minimum documents are:
  - i. Certified Copy of Marriage Certificate (NOT a Marriage LICENSE!!!!)
  - ii. Certified Copy of Divorce Decree or Dissolution of Marriage
  - iii. A Statement of Service or a complete set of the Military Sponsor’s DD Forms 212, Discharge Certificate from the Armed Forces
  - iv. Proof of the Former Spouse’s Identity. (Examples: Certified copy of their birth certificates; U.S. Passport; State Drivers License; Social Security Card; present Military Dependent ID Card)

15. My Military Sponsor and I are contemplating a divorce, but I don’t know if I will be able to satisfy the requirements as a 20/20/20 or even 20/20/15 Unremarried Former Spouse. I’ve had some significant illnesses during our marriage, and obtaining “follow-on” health insurance will be difficult and expensive. Is there a way of finding out for certain beforehand if I will be eligible for TRICARE as an Unremarried Former Spouse?

- a. ANSWER: Yes, all of the Uniformed Services have created a program for providing advanced determinations on military spouses being able to satisfy the statutory requirements for TRICARE and other benefits (i.e., Commissary, Base Exchange, and MWR). It is called the Former Spouse Determination Program.

Contact information for the personnel offices for each branch of the Uniformed Services may be found on the following page and at this website:  
[www.jber.af.mil/shared/media/document/AFD-120613-063.pdf](http://www.jber.af.mil/shared/media/document/AFD-120613-063.pdf)