



TRICARE
MANAGEMENT ACTIVITY

MB&RB

**OFFICE OF THE ASSISTANT SECRETARY OF DEFENSE
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PART 199.17 - TRICARE PROGRAM

(a) Establishment. The TRICARE program is established for the purpose of implementing a comprehensive managed health care program for the delivery and financing of health care services in the Military Health System.

(1) Purpose. The TRICARE program implements management improvements primarily through managed care support contracts that include special arrangements with civilian sector health care providers and better coordination between military medical treatment facilities (MTFs) and these civilian providers. Implementation of these management improvements includes adoption of special rules and procedures not ordinarily followed under CHAMPUS or MTF requirements. This section establishes those special rules and procedures.

(2) Statutory authority. Many of the provisions of this section are authorized by statutory authorities other than those which authorize the usual operation of the CHAMPUS program, especially 10 U.S.C. 1079 and 1086. The TRICARE program also relies upon other available statutory authorities, including 10 U.S.C. 1099 (health care enrollment system), 10 U.S.C. 1097 (contracts for medical care for retirees, dependents and survivors: alternative delivery of health care), and 10 U.S.C. 1096 (resource sharing agreements).

(3) Scope of the program. The TRICARE program is applicable to all of the uniformed services. **Its geographical applicability is to all 50 states (except as modified for the state of Alaska under paragraph (v) of this section) and the District of Columbia.** In such cases, the Assistant Secretary of Defense (Health Affairs) may also authorize modifications to TRICARE program rules and procedures as may be appropriate to the area involved.

(4) MTF rules and procedures affected. Much of this section relates to rules and procedures applicable to the delivery and financing of health care services provided by civilian providers outside military treatment facilities. This section provides that certain rules, procedures, rights and obligations set forth elsewhere in this part (and usually applicable to CHAMPUS) are different under the TRICARE program. In addition, some rules, procedures, rights and obligations relating to health care services in military treatment facilities are also different under the TRICARE program. In such cases, provisions of this section take precedence and are binding.

(5) Implementation based on local action. The TRICARE program is not automatically implemented in all areas where it is potentially applicable. Therefore, provisions of this section are not automatically implemented. Rather, implementation of the TRICARE program and this section requires an official action by an authorized individual, such as a military medical treatment facility commander, a Surgeon General, the Assistant Secretary of Defense (Health Affairs), or other person authorized by the Assistant Secretary. Public notice of the initiation of the TRICARE program will be achieved through appropriate communication and media methods and by way of an official announcement by the Director, OCHAMPUS, identifying the military medical treatment facility catchment area or other geographical area covered.

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(6) Major features of the TRICARE program. The major features of the TRICARE program, described in this section, include the following:

(i) Comprehensive enrollment system. Under the TRICARE program, all health care beneficiaries become classified into one of four categories:

(A) Active duty members, all of whom are automatically enrolled in TRICARE Prime;

(B) TRICARE Prime enrollees;

(C) TRICARE Standard participants, who are all CHAMPUS eligible beneficiaries who are not enrolled in TRICARE Prime;

(D) Non-CHAMPUS beneficiaries, who are beneficiaries eligible for health care services in military treatment facilities, but not eligible for CHAMPUS;

(ii) Establishment of a triple option benefit. A second major feature of TRICARE is the establishment of three options for receiving health care:

(A) "TRICARE Prime," which is a health maintenance organization (HMO)-like program. It generally features use of military treatment facilities and substantially reduced out-of-pocket costs for CHAMPUS care. Beneficiaries generally agree to use military treatment facilities and designated civilian provider networks and to follow certain managed care rules and procedures.

(B) "TRICARE Extra," which is a preferred provider organization (PPO) program. It allows TRICARE Standard beneficiaries to use the TRICARE provider network, including both military facilities and the civilian network, with reduced out-of-pocket costs. These beneficiaries also continue to be eligible for military medical treatment facility care on a space-available basis.

(C) "TRICARE Standard" which is the basic CHAMPUS program. All eligible beneficiaries are automatically included in Standard unless they have enrolled in Prime. It preserves broad freedom of choice of civilian providers, but does not offer reduced out-of-pocket costs. These beneficiaries continue to be eligible to receive care in military medical treatment facilities on a space available basis.

(iii) Coordination between military and civilian health care delivery systems. A third major feature of the TRICARE program is a series of activities affecting all beneficiary enrollment categories, designed to coordinate care between military and civilian health care systems. These activities include:

(A) Resource sharing agreements, under which a TRICARE contractor provides to a military medical treatment facility, personnel and other resources to increase the availability of services in the facility. All beneficiary enrollment categories may benefit from this increase.

(B) Health care finder, an administrative activity that facilitates referrals to appropriate health care services in the military facility and civilian provider network. All beneficiary enrollment categories may use the health care finder.

(C) Integrated quality and utilization management services, potentially standardizing reviews for military and civilian sector providers. All beneficiary categories may benefit from these services.

(iv) Consolidated schedule of charges. A fourth major feature of TRICARE is a consolidated schedule of charges, incorporating revisions that reduce differences in charges between military and civilian services. In general, the TRICARE program reduces out-of-pocket costs for civilian sector care.

(7) Preemption of State laws. (i) Pursuant to 10 U.S.C. 1103 and section 8025 (fourth proviso) of the Department of Defense Appropriations Act, 1994, the Department of Defense has determined that in the administration of 10 U.S.C. chapter 55, preemption of State and local laws relating to health insurance, prepaid health plans, or other health care delivery or financing methods is necessary to achieve important Federal interests, including but not limited to the assurance of uniform national health programs for military families and the operation of such programs at the lowest possible cost to the Department of Defense, that have a direct and substantial effect on the conduct of military affairs and national security policy of the United States.

(ii) Based on the determination set forth in paragraph (a)(7)(i) of this section, any State or local law relating to health insurance, prepaid health plans, or other health care delivery or financing methods is preempted and does not apply in connection with TRICARE regional contracts. Any such law, or regulation pursuant to such law, is without any force or effect, and State or local governments have no legal authority to enforce them in relation to the TRICARE regional contracts. (However, the Department of Defense may by contract establish legal obligations of the part of TRICARE contractors to conform with requirements similar or identical to requirements of State or local laws or regulations).

(iii) The preemption of State and local laws set forth in paragraph (a)(7)(ii) of this section includes State and local laws imposing premium taxes on health or dental insurance carriers or underwriters or other plan managers, or similar taxes on such entities. Such laws are laws relating to health insurance, prepaid health plans, or other health care delivery or financing methods, within the meaning of the statutes identified in paragraph (a)(7)(i) of this section. Preemption, however, does not apply to taxes, fees, or other payments on net income or profit realized by such entities in the conduct of business relating to DoD health services contracts, if those taxes, fees or other payments are applicable to a broad range of business activity. For purposes of assessing the effect of Federal preemption of State and local taxes and fees in connection with DoD health and dental services contracts, interpretations shall be consistent with those applicable to the Federal Employees Health Benefits Program under 5 U.S.C. 8909(f).

(b) Triple option benefit in general. Where the TRICARE program is fully implemented, eligible beneficiaries are given the option of enrolling in TRICARE Prime (also referred to as "Prime") or remaining in TRICARE Standard (also referred to as "Standard"). In the absence of an enrollment in Prime, coverage under Standard is automatic.

(1) Choice voluntary. With the exception of active duty members, the choice of whether to enroll in Prime is voluntary for all eligible beneficiaries. For dependents who are minors, the choice will be exercised by a parent or guardian.

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(2) Active duty members. For active duty members located in areas where the TRICARE program is implemented, enrollment in Prime is mandatory.

(3) Automatic enrollment of certain dependents: Under 10 U.S.C. 1097a, in the case of dependents of active duty members in the grade of E-1 to E-4, such dependents who reside in a catchment area of a military treatment facility shall be enrolled in TRICARE Prime consistent with procedures established under paragraph (o)(7) of this section. The enrollment of a dependent of the member may be terminated by the member, dependent or other responsible individual at any time.

(c) Eligibility for enrollment. Where the TRICARE program is fully implemented, all CHAMPUS-eligible beneficiaries who are not Medicare eligible on the basis of age are eligible to enroll in Prime or to remain covered under Standard. CHAMPUS beneficiaries who are eligible for Medicare on basis of age (and are enrolled in Medicare Part B) are automatically covered under TRICARE Standard. Further, some rules and procedures are different for dependents of active duty members and retirees, dependents, and survivors. In addition, where the TRICARE program is implemented, a military medical treatment facility commander or other authorized individual may establish priorities, consistent with paragraph (c) of this section, based on availability or other operational requirements, for when and whether to offer enrollment in Prime.

(1) Active duty members. Active duty members are required to enroll in Prime when it is offered. Active duty members shall have first priority for enrollment in Prime. Because active duty members are not CHAMPUS eligible, when active duty members obtain care from civilian providers outside the military medical treatment facility, the supplemental care program and its requirements (including Sec. 199.16) will apply.

(2) Dependents of active duty members. (i) Dependents of active duty members are eligible to enroll in Prime. After all active duty members are enrolled, those dependents of active duty members in the grade of E-1 to E-4 will have second priority and all other dependents of active duty members will have third priority.

(ii) If all dependents of active duty members within the area concerned cannot be accepted for enrollment in Prime at the same time, the MTF Commander (or other authorized individual) may establish priorities within this beneficiary group category. The priorities may be based on first-come, first-served, or alternatively, be based on rank of sponsor, beginning with the lowest pay grade.

(3) Survivors of Deceased Members.(i) The spouse of a member who dies while on active duty for a period of more than 30 days is eligible to enroll in Prime for a 3 year period beginning on the date of the member's death. For the three year period, surviving spouses of a member who dies while on active duty for a period of more than 30 days are subject to the same rules and provisions as dependents of active duty members.

(ii) A dependent child or unmarried person (as described in Sec. 199.3(b)(2)(ii), or (b)(2)(iv)) of a member who dies while on active duty for a period of more than 30 days whose death occurred on or after October 7, 2001, is eligible to enroll in Prime and is subject to the same rules and provisions as dependents of active duty members for a period of three

years from the date the active duty sponsor dies or until the surviving eligible dependent:

- (A) Attains 21 years of age, or
 - (B) Attains 23 years of age or ceases to pursue a full-time course of study prior to attaining 23 years of age, if, at 21 years of age, the eligible surviving dependent is enrolled in a full-time course of study in a secondary school or in a full-time course of study in an institution of higher education approved by the Secretary of Defense and was, at the time of the sponsor's death, in fact dependent on the member for over one-half of such dependent's support.
- (4) Retired members, dependents of retired members, and survivors. (i) Where TRICARE is fully implemented, all CHAMPUS-eligible retired members, dependents of retired members, and survivors who are not eligible for Medicare on the basis of age are eligible to enroll in Prime. After all active duty members are enrolled and availability of enrollment is assured for all active duty dependents wishing to enroll, this category of beneficiaries will have third priority for enrollment.
- (ii) If all eligible retired members, dependents of retired members, and survivors within the area concerned cannot be accepted for enrollment in Prime at the same time, the MTF Commander (or other authorized individual) may allow enrollment within this beneficiary group category on a first come, first served basis.
- (5) Coverage under Standard. All CHAMPUS-eligible beneficiaries who do not enroll in Prime will remain in Standard.

(d) Health benefits under Prime. Health benefits under Prime, set forth in paragraph (d) of this section, differ from those under Extra and Standard, set forth in paragraphs (e) and (f) of this section.

(1) Military treatment facility (MTF) care--(i) In general. All participants in Prime are eligible to receive care in military treatment facilities. Participants in Prime will be given priority for such care over other beneficiaries. Among the following beneficiary groups, access priority for care in military treatment facilities where TRICARE is implemented as follows:

- (A) Active duty service members;
- (B) Active duty service members' dependents and survivors of service members who died on active duty, who are enrolled in TRICARE Prime;
- (C) Retirees, their dependents and survivors, who are enrolled in TRICARE Prime;
- (D) Active duty service members' dependents and survivors of service members who died on active duty, who are not enrolled in TRICARE Prime; and
- (E) Retirees, their dependents and survivors who are not enrolled in TRICARE Prime. For purposes of this paragraph (d)(1), survivors of members who died while on active duty are considered as among dependents of active duty service members.

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(ii) Special provisions. Enrollment in Prime does not affect access priority for care in military treatment facilities for several miscellaneous beneficiary groups and special circumstances. Those include Secretarial designees, NATO and other foreign military personnel and dependents authorized care through international agreements, civilian employees under workers' compensation programs or under safety programs, members on the Temporary Disability Retired List (for statutorily required periodic medical examinations), members of the reserve components not on active duty (for covered medical services), military prisoners, active duty dependents unable to enroll in Prime and temporarily away from place of residence, and others as designated by the Assistant Secretary of Defense (Health Affairs). Additional exceptions to the normal Prime enrollment access priority rules may be granted for other categories of individuals, eligible for treatment in the MTF, whose access to care is necessary to provide an adequate clinical case mix to support graduate medical education programs or readiness-related medical skills sustainment activities, to the extent approved by the ASD(HA).

(2) Non-MTF care for active duty members. Under Prime, non-MTF care needed by active duty members continues to be arranged under the supplemental care program and subject to the rules and procedures of that program, including those set forth in Sec. 199.16.

(3) Benefits covered for CHAMPUS eligible beneficiaries for civilian sector care. The provisions of Sec. 199.18 regarding the Uniform HMO Benefit apply to TRICARE Prime enrollees.

(e) Health benefits under the TRICARE extra plan. Beneficiaries not enrolled in Prime, although not in general required to use the Prime civilian preferred provider network, are eligible to use the network on a case-by-case basis under Extra. The health benefits under Extra are identical to those under Standard, set forth in paragraph (f) of this section, except that the CHAMPUS cost sharing percentages are lower than usual CHAMPUS cost sharing. The lower requirements are set forth in the consolidated schedule of charges in paragraph (m) of this section.

(f) Health benefits under the TRICARE standard plan. Where the TRICARE program is implemented, health benefits under Prime, set forth under paragraph (d) of this section, and Extra, set forth under paragraph (e) of this section, are different than health benefits under Standard, set forth in this paragraph (f).

(1) Military treatment facility (MTF) care. All nonenrollees (including beneficiaries not eligible to enroll) continue to be eligible to receive care in military treatment facilities on a space available basis.

(2) Freedom of choice of civilian provider. Except as stated in Sec. 199.4(a) in connection with nonavailability statement requirements, CHAMPUS-eligible participants in Standard maintain their freedom of choice of civilian provider under CHAMPUS. All nonavailability statement requirements of Sec. 199.4(a) apply to Standard participants.

(3) CHAMPUS benefits apply. The benefits, rules and procedures of the CHAMPUS basis program as set forth in this part, shall apply to CHAMPUS-eligible participants in Standard.

(iv) Any other method authorized by law may be used.

(q) Preferred provider network establishment under any qualified provider method.

The any qualified provider method may be used to establish a civilian preferred provider network. Under this method, any CHAMPUS-authorized provider within the geographical area involved that meets the qualification standards established by the MTF Commander (or other authorized official) may become a part of the preferred provider network. Such standards must be publicly announced and uniformly applied. Also under this method, any provider who meets all applicable qualification standards may not be excluded from the preferred provider network. Qualifications include:

- (1) The provider must meet all applicable requirements in paragraph (p)(4) of this section.
- (2) The provider must agree to follow all quality assurance and utilization management procedures established pursuant to this section.
- (3) The provider must be a Participating Provider under CHAMPUS for all claims.
- (4) The provider must meet all other qualification requirements, and agree to all other rules and procedures, that are established, publicly announced, and uniformly applied by the commander (or other authorized official).
- (5) The provider must sign a preferred provider network agreement covering all applicable requirements. Such agreements will be for a duration of one year, are renewable, and may be canceled by the provider or the MTF Commander (or other authorized official) upon appropriate notice to the other party. The Director, OCHAMPUS shall establish an agreement model or other guidelines to promote uniformity in the agreements.

(r) General fraud, abuse, and conflict of interest requirements under TRICARE program. All fraud, abuse, and conflict of interest requirements for the basic CHAMPUS program, as set forth in this part 199 (see especially applicable provisions of Sec. 199.9) are applicable to the TRICARE program. Some methods and procedures for implementing and enforcing these requirements may differ from the methods and procedures followed under the basic CHAMPUS program in areas in which the TRICARE program has not been implemented.

(s) Partial implementation. The Assistant Secretary of Defense (Health Affairs) may authorize the partial implementation of the TRICARE program. The following are examples of partial implementation:

- (1) The TRICARE Extra Plan and the TRICARE Standard Plan may be offered without the TRICARE Prime Plan.
- (2) In remote sites, where complete implementation of TRICARE is impracticable, TRICARE Prime may be offered to a limited group of beneficiaries. In such cases, normal requirements of TRICARE Prime which the Assistant Secretary of Defense (Health Affairs) determines are impracticable may be waived.
- (3) The TRICARE program may be limited to particular services, such as mental health services.

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(f) **Inclusion of Department of Veterans Affairs Medical Centers in TRICARE networks.** TRICARE preferred provider networks may include Department of Veterans Affairs health facilities pursuant to arrangements, made with the approval of the Assistant Secretary of Defense (Health Affairs), between those centers and the Director, OCHAMPUS, or designated TRICARE contractor.

(u) **Care provided outside the United States to dependents of active duty members.** The Assistant Secretary of Defense (Health Affairs) may, in conjunction with implementation of the TRICARE program, authorize a special CHAMPUS program for dependents of active duty members who accompany the members in their assignments in foreign countries. Under this special program, a preferred provider network will be established through contracts or agreements with selected health care providers. Under the network, CHAMPUS covered services will be provided to the covered dependents with all CHAMPUS requirements for deductibles and copayments waived. The use of this authority by the Assistant Secretary of Defense (Health Affairs) for any particular geographical area will be announced in the Federal Register. The announcement will include a description of the preferred provider network program and other pertinent information.

(v) **Administration of the TRICARE program in the state of Alaska.** In view of the unique geographical and environmental characteristics impacting the delivery of health care in the state of Alaska, administration of the TRICARE program in the state of Alaska will not include financial underwriting of the delivery of health care by a TRICARE contractor. All other provisions of this section shall apply to administration of the TRICARE program in the state of Alaska as they apply to the other 49 states and the District of Columbia.

(w) **Administrative procedures.** The Assistant Secretary of Defense (Health Affairs), the Director, TRICARE Management Activity, and MTF Commanders (or other authorized officials) are authorized to establish administrative requirements and procedures, consistent with this section, this part, and other applicable DoD Directives or Instructions, for the implementation and operation of the TRICARE program.

[60 FR 52095, Oct. 5, 1995, as amended at 63 FR 9142, Feb. 24, 1998; 63 FR 48447, Sep. 10, 1998; 64 FR 13913, Mar. 23, 1999; 65 FR 39805, Jun. 28, 2000; 65 FR 45425, Jul. 21, 2000; 66 FR 9655, Feb. 9, 2001; 66 FR 40608, Aug. 3, 2001; 67 FR 5479, Feb. 6, 2002; 67 FR 6409, Feb. 12, 2002; 68 FR 23033, Apr. 30, 2003; 68 FR 32363, May 30, 2003; 68 FR 44883, Jul. 31, 2003; 68 FR 44881, Jul. 31, 2003; 70 FR 19266, Apr. 13, 2005; 71 FR 50349, Aug. 25, 2006; 72 FR 2448, Jan. 19, 2007; 73 FR 30478, May 28, 2008; 75 FR 47713, Aug. 9, 2010; 75 FR 50884, Aug. 18, 2010]