OFFICE OF THE ASSISTANT SECRETARY OF DEFENSE
HEALTH AFFAIRS
16401 EAST CENTRETECH PARKWAY
AURORA, COLORADO 80011-9066

TRICARE
MANAGEMENT ACTIVITY

MB&RB

CHANGE 1
10 USC 55
SEPTEMBER 20, 2010

PUBLICATIONS SYSTEM CHANGE TRANSMITTAL FOR TITLE 10, SUBTITLE A, PART II, CHAPTER 55 MEDICAL AND DENTAL CARE (TMA VERSION)

The Department of Defense, Office of the Secretary, has authorized the following addition(s)/revision(s) to 10 United States Code (USC) Chapter 55 (TMA Version), reissued March 2009.

CHANGE TITLE: **FEBRUARY 2010 UPDATE**

DATE LISTED: February 1, 2010.

SUMMARY: USC Classification Table, 111th, First Session (Public Laws 111-1 through 110-125, 111-128 through 111-135, and 111-137)—Prepared by Office of the Law Revision Counsel, U.S. House of Representatives (February 1, 2010).

PAGE CHANGE(S): See page 2.

ATTACHMENT(S): **223 PAGES**
DISTRIBUTION: **10 USC 55**

WHEN PRESCRIBED ACTION HAS BEEN TAKEN, FILE THIS TRANSMITTAL WITH BASIC DOCUMENT

REMOVE PAGE(S)	INSERT PAGE(S)
Table of Contents, pages 1 through 3	Table of Contents, pages 1 through 3
Amendments, pages 1 through 3	Amendments, pages 1 through 3
Updates, pages 1 through 3	Updates, pages 1 through 4
Section 1071, pages 1 through 13	Section 1071, pages 1 through 53
Section 1072, pages 3 through 7	Section 1072, pages 3 through 7
Section 1073, pages 1 through 27	Section 1073, pages 1 through 30
Section 1074, pages 1 through 28	Section 1074, pages 1 through 30
Section 1074a, pages 1 through 5	Section 1074a, pages 1 through 5
Section 1074f, pages 1 through 3	Section 1074f, pages 1 through 6
Section 1074g, pages 1 through 7	Section 1074g, pages 1 through 8
Section 1074i, page 1	Section 1074i, pages 1 and 2
★ ★ ★ ★ ★ ★	Section 1074l, page 1
Section 1076, pages 7 through 9	Section 1076, pages 7 through 9
Section 1076a, pages 1 through 5	Section 1076a, pages 1 through 6
Section 1076d, pages 1 through 4	Section 1076d, pages 1 through 4
★ ★ ★ ★ ★ ★	Section 1076e, pages 1 and 2
Section 1077, pages 5 through 7	Section 1077, pages 5 through 8
Section 1078a, pages 1 through 5	Section 1078a, pages 1 through 6
Section 1079, pages 5, 6, and 11 through 24	Section 1079, pages 5, 6, and 11 through 25
Section 1086, pages 1 through 9	Section 1086, pages 1 through 10
Section 1089, pages 1 through 4	Section 1089, pages 1 through 4
Section 1092, pages 1 through 7	Section 1092, pages 1 through 9
Section 1097, pages 1 through 3	Section 1097, pages 1 through 3
Section 1108, pages 1, 2, 5, and 6	Section 1108, pages 1, 2, 5, and 6
★ ★ ★ ★ ★ ★	Section 1110a, page 1

TMA Version - March 2009

Section	Subject
Amendments	
Updates	
1071.	Purpose of this chapter
1072.	Definitions
1073.	Administration of this chapter
1073a.	Contracts for health care: best value contracting
1073b.	Recurring reports
1074.	Medical and dental care for members and certain former members
1074a.	Medical and dental care: members on duty other than active duty for a period of more than 30 days
1074b.	Medical and dental care: Academy cadets and midshipmen; members of, and designated applicants for membership in, Senior ROTC
1074c.	Medical care: authority to provide a wig
1074d.	Certain primary and preventive health care services
1074e.	Medical care: certain Reserves who served in Southwest Asia during the Persian Gulf Conflict
1074f.	Medical tracking system for members deployed overseas
1074g.	Pharmacy benefits program
1074h.	Medical and dental care: medal of honor recipients; dependents
1074i.	Reimbursement for certain travel expenses
1074j.	Sub-acute care program
1074k.	Long-term care insurance
1074l.	Notification to Congress of hospitalization of combat wounded members
1075.	[Repealed]
1076.	Medical and dental care for dependents: general rule
1076a.	TRICARE dental program
1076b.	[Repealed]
1076c.	Dental insurance plan: certain retirees and their surviving spouses and other dependents
1076d.	TRICARE program: TRICARE Standard coverage for members of the Selected Reserve
1076e.	TRICARE program: TRICARE Standard coverage for certain members of the Retired Reserve who are qualified for a non-regular retirement but are not yet age 60

TMA Version - March 2009

Section	Subject
1077.	Medical care for dependents: authorized care in facilities of uniformed services
1078.	Medical and dental care for dependents: charges
1078a.	Continued health benefits coverage
1079.	Contracts for medical care for spouses and children: plans
1079a.	CHAMPUS: treatment of refunds and other amounts collected
1079b.	Procedures for charging fees for care provided to civilians; retention and use of fees collected
1080.	Contracts for medical care for spouses and children: election of facilities
1081.	Contracts for medical care for spouses and children: review and adjustment of payments
1082.	Contracts for health care: advisory committees
1083.	Contracts for medical care for spouses and children: additional hospitalization
1084.	Determinations of dependency
1085.	Medical and dental care from another executive department: reimbursement
1086.	Contracts for health benefits for certain members, former members, and their dependents
1086a.	Certain former spouses: extension of period of eligibility for health benefits
1086b.	Prohibition against requiring retired members to receive health care solely through the Department of Defense
1087.	Programing facilities for certain members, former members, and their dependents in construction projects of the uniformed services
1088.	Air evacuation patients: furnished subsistence
1089.	Defense of certain suits arising out of medical malpractice
1090.	Identifying and treating drug and alcohol dependence
1091.	Personal services contracts
1092.	Studies and demonstration projects relating to delivery of health and medical care
1092a.	Persons entering the armed forces: baseline health data
1093.	Performance of abortions: restrictions
1094.	Licensure requirement for health-care professionals
1094a.	Continuing medical education requirements: system for monitoring physician compliance
1095.	Health care services incurred on behalf of covered beneficiaries: collection from third-party payers
1095a.	Medical care: members held as captives and their dependents

Section	Subject
1095b.	TRICARE program: contractor payment of certain claims
1095c.	TRICARE program: facilitation of processing of claims
1095d.	TRICARE program: waiver of certain deductibles
1095e.	TRICARE program: beneficiary counseling and assistance coordinators
1095f.	TRICARE program: referrals for specialty health care
1096.	Military-civilian health services partnership program
1097.	Contracts for medical care for retirees, dependents, and survivors: alternative delivery of health care
1097a.	TRICARE Prime: automatic enrollments; payment options
1097b.	TRICARE program: financial management
1097c.	TRICARE program: relationship with employer-sponsored group health plans
1098.	Incentives for participation in cost-effective health care plans
1099.	Health care enrollment system
1100.	Defense Health Program Account
1101.	Resource allocation methods: capitation or diagnosis-related groups
1102.	Confidentiality of medical quality assurance records: qualified immunity for participants
1103.	Contracts for medical and dental care: State and local preemption
1104.	Sharing of health-care resources with the Department of Veterans Affairs
1105.	Specialized treatment facility program
1106.	Submittal of claims: standard form; time limits
1107.	Notice of use of an investigational new drug or a drug unapproved for its applied use
1107a.	Emergency use products
1108.	Health care coverage through Federal Employees Health Benefits program: demonstration project
1109.	Organ and tissue donor program
1110.	Anthrax vaccine immunization program; procedures for exemptions and monitoring reactions
1110a.	Notification of certain individuals regarding options for enrollment under Medicare part B

TMA Version - March 2009

Amendments

2009—Pub. L. 111-84, div. A, title VII, Secs. 705(b), 707(b), Oct. 28, 2009, 123 Stat. 2375, 2376, added items 1076e and 1110a.

2008—Pub. L. 110-181, div. A, title XVI, Sec. 1617(b), Jan. 28, 2008, 122 Stat. 449, as amended by Pub. L. 110-417, [div. A], title X, Sec. 1061(b)(14), Oct. 14, 2008, 122 Stat. 4613, added item 1074l.

2006—Pub. L. 109-364, div. A, title VII, Sec. 707(b), Oct. 17, 2006, 120 Stat. 2284, added item 1097c.

Pub. L. 109-364, div. A, title VII, Sec. 706(e), Oct. 17, 2006, 120 Stat. 2282, struck out item 1076b "TRICARE program: TRICARE Standard coverage for members of the Selected Reserve" and substituted "TRICARE program: TRICARE Standard coverage for members of the Selected Reserve" for "TRICARE program: coverage for members of reserve components who commit to continued service in the Selected Reserve after release from active duty in support of a contingency operation" in item 1076d, effective Oct. 1, 2007.

Pub. L. 109-163, div. A, title VII, Secs. 701(f)(2), 702(a)(2), Jan. 6, 2006, 119 Stat. 3340, 3342, substituted "TRICARE program: TRICARE Standard coverage for members of the Selected Reserve" for "TRICARE program: coverage for members of the Ready Reserve" in item 1076b and "TRICARE program: coverage for members of reserve components who commit to continued service in the Selected Reserve after release from active duty in support of a contingency operation" for "TRICARE program: coverage for members of reserve components who commit to continued service in the Selected Reserve after release from active duty" in item 1076d.

2004—Pub. L. 108-375, div. A, title V, Sec. 555(a)(2), title VI, Sec. 607(a)(2), title VII, Secs. 701(a)(2), 733(a)(2), 739(a)(2), title X, Sec. 1084(d)(7), Oct. 28, 2004, 118 Stat. 1914, 1946, 1981, 1998, 2002, 2061, added items 1073b, 1074b, 1076d, and 1092a, reenacted item 1076b without change, and struck out item 1075 "Officers and certain enlisted members: subsistence charges".

2003—Pub. L. 108-136, div. A, title XVI, Sec. 1603(b)(2), Nov. 24, 2003, 117 Stat. 1690, added item 1107a.

Pub. L. 108-106, title I, Sec. 1115(b), Nov. 6, 2003, 117 Stat. 1218, added item 1076b.

2001—Pub. L. 107-107, div. A, title VII, Secs. 701(a)(2), (f)(2), 731(b), 732(a)(2), 736(c)(2), title X, Sec. 1048(a)(10), Dec. 28, 2001, 115 Stat. 1158, 1161, 1169, 1173, 1223, struck out item 1074b "Transitional medical and dental care: members on active duty in support of contingency operations", transferred item 1074i to appear after item 1074h, and added items 1074j, 1074k, 1079b, and 1086b.

2000—Pub. L. 106-398, Sec. 1 [[div. A], title VII, Secs. 706(a)(2), 728(a)(2), 751(b)(2), 758(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A-175, 1654A-189, 1654A-194, 1654A-200, added items 1074h, 1074i, 1095f, and 1110.

TMA Version - March 2009

TMA Version - March 2009

1999—Pub. L. 106-65, div. A, title VII, Secs. 701(a)(2), 711(b), 713(a)(2), 714(b), 715(a)(2), 716(a)(2), 722(b), Oct. 5, 1999, 113 Stat. 680, 687, 689-691, 695, added items 1073a, 1074g, 1076a, 1095c, 1095d, 1095e, and 1097b and struck out former items 1076a "Dependents' dental program" and 1076b "Selected Reserve dental insurance".

1998—Pub. L. 105-261, div. A, title VII, Secs. 711(b), 712(a)(2), 721(a)(2), 734(b)(2), 741(b)(2), Oct. 17, 1998, 112 Stat. 2058, 2059, 2065, 2073, 2074, added items 1094a, 1095b, 1097a, 1108, and 1109.

1997—Pub. L. 105-85, div. A, title VII, Secs. 738(b), 764(b), 765(a)(2), 766(b), Nov. 18, 1997, 111 Stat. 1815, 1826-1828, added items 1074e, 1074f, 1106, and 1107 and struck out former item 1106 "Submittal of claims under CHAMPUS".

1996—Pub. L. 104-201, div. A, title VII, Secs. 701(a)(2)(B), 703(a)(2), 733(a)(2), Sept. 23, 1996, 110 Stat. 2587, 2590, 2598, substituted "Certain primary and preventive health care services" for "Primary and preventive health care services for women" in item 1074d and added items 1076c and 1079a.

Pub. L. 104-106, div. A, title VII, Secs. 705(a)(2), 735(d)(2), 738(b)(2), Feb. 10, 1996, 110 Stat. 373, 383, added item 1076b and substituted "Performance of abortions: restrictions" for "Restriction on use of funds for abortions" in item 1093 and "Defense Health Program Account" for "Military Health Care Account" in item 1100.

1993—Pub. L. 103-160, div. A, title VII, Secs. 701(a)(2), 712(a)(2), 714(b)(2), 716(a)(2), Nov. 30, 1993, 107 Stat. 1686, 1689, 1690, 1692, added item 1074d, substituted "Personal services contracts" for "Contracts for direct health care providers" in item 1091 and "Resource allocation methods: capitation or diagnosis-related groups" for "Diagnosis-related groups" in item 1101, added item 1105, and struck out former item 1105 "Issuance of nonavailability of health care statements".

1992—Pub. L. 102-484, div. D, title XLIV, Sec. 4408(a)(2), Oct. 23, 1992, 106 Stat. 2712, added item 1078a.

1991—Pub. L. 102-190, div. A, title VI, Sec. 640(b), title VII, Secs. 715(b), 716(a)(2), Dec. 5, 1991, 105 Stat. 1385, 1403, 1404, added item 1074b, redesignated former item 1074b as 1074c, and added items 1105 and 1106.

1990—Pub. L. 101-510, div. A, title VII, Sec. 713(d)(2)[(3)], Nov. 5, 1990, 104 Stat. 1584, substituted "Health care services incurred on behalf of covered beneficiaries: collection from third-party payers" for "Collection from third-party payers of reasonable inpatient hospital care costs incurred on behalf of retirees and dependents" in item 1095.

1989—Pub. L. 101-189, div. A, title VII, Secs. 722(b), 731(b)(2), Nov. 29, 1989, 103 Stat. 1478, 1482, added items 1086a and 1104.

1987—Pub. L. 100-180, div. A, title VII, Sec. 725(a)(2), Dec. 4, 1987, 101 Stat. 1116, added item 1103.

Pub. L. 100-26, Sec. 7(e)(2), Apr. 21, 1987, 101 Stat. 281, redesignated item 1095 "Medical care: members held as captives and their dependents" as item 1095a.

1986—Pub. L. 99-661, div. A, title VI, Sec. 604(a)(2), title VII, Secs. 701(a)(2), 705(a)(2), Nov. 14, 1986, 100 Stat. 3875, 3897, 3904 substituted "active duty for a period of more than 30 days" for "active duty; injuries, diseases, and illnesses incident to duty" in item 1074a and added items 1096 to 1102.

Pub. L. 99-399, title VIII, Sec. 801(c)(2), Aug. 27, 1986, 100 Stat. 886, added item 1095 "Medical care: members held as captives and their dependents".

Pub. L. 99-272, title II, Sec. 2001(a)(2), Apr. 7, 1986, 100 Stat. 101, added item 1095 "Collection from third-party payers of reasonable inpatient hospital care costs incurred on behalf of retirees and dependents".

1985—Pub. L. 99-145, title VI, Secs. 651(a)(2), 653(a)(2), Nov. 8, 1985, 99 Stat. 656, 658, added items 1076a and 1094.

1984—Pub. L. 98-525, title VI, Sec. 631(a)(2), title XIV, Sec. 1401(e)(2)(B), (5)(B), Oct. 19, 1984, 98 Stat. 2543, 2616, 2618, substituted in item 1074a "Medical and dental care: members on duty other than active duty; injuries, diseases, and illnesses incident to duty" for "Medical and dental care for members of the uniformed services for injuries incurred or aggravated while traveling to and from inactive duty training" and added items 1074b and 1093.

1983—Pub. L. 98-94, title IX, Secs. 932(a)(2), 933(a)(2), title X, Sec. 1012(a)(2), title XII, Sec. 1268(5)(B), Sept. 24, 1983, 97 Stat. 650, 651, 665, 706, added items 1074a, 1091, and 1092, and struck out "; reports" at end of item 1081.

1982—Pub. L. 97-295, Sec. 1(15)(B), Oct. 12, 1982, 96 Stat. 1290, added item 1090.

1980—Pub. L. 96-513, title V, Sec. 511(34)(D), Dec. 12, 1980, 94 Stat. 2923, in items 1071 and 1073 substituted "this chapter" for "sections 1071-1087 of this title", and in item 1086 substituted "benefits" for "care".

1976—Pub. L. 94-464, Sec. 1(b), Oct. 8, 1976, 90 Stat. 1986, added item 1089.

1970—Pub. L. 91-481, Sec. 2(2), Oct. 21, 1970, 84 Stat. 1082, added item 1088.

1966—Pub. L. 89-614, Sec. 2(9), Sept. 30, 1966, 80 Stat. 866, substituted "1087" for "1085" in items 1071 and 1073, "Medical care" and "authorized care in facilities of uniformed services" for "Medical and dental care" and "specific inclusions and exclusions" in item 1077, "Contracts for health care" for "Contracts for medical care for spouses and children" in item 1082, and added items 1086 and 1087.

1965—Pub. L. 89-264, Sec. 2, Oct. 19, 1965, 79 Stat. 989, substituted "executive department" for "uniformed service" in item 1085.

1958—Pub. L. 85-861, Sec. 1(25)(A), (C), Sept. 2, 1958, 72 Stat. 1445, 1450, substituted "Medical and Dental Care" for "Voting by Members of Armed Forces" in heading of chapter, and substituted items 1071 to 1085 for former items 1071 to 1086.

TMA Version - March 2009

Updates

Updates to the sections of the United States Code (USC) contained in Title 10 > Subtitle A > Part II > Chapter 55 (Medical And Dental Care).

Title 10 of the USC as currently published by the US Government reflects the laws passed by Congress as of February 1, 2010.

The office of the Law Revision Counsel is responsible for the codification process, which can take as much as several years, but which starts very quickly with "classification" of recently passed legislation to corresponding USC sections (http://uscode.house.gov/classification/tables.shtml).

Column 1 - List USC sections in ascending order.

Column 2 - Contains special information as follows:
"new" means a new section or new note, or all new text of an existing section or note.
"nt" means note.
"nt [tbl]" means note [table].
"prec" means preceding.
"fr" means a transfer from another section.
"to" means a transfer to another section.
"omitted" means the section is omitted.
"repealed" means the section is repealed.

Columns 3, 4, and 5 - Contain Public Law, Section, and Statutes-at-Large citations.

Baseline Version: The table below lists the classification updates (http://uscode.house.gov/classification/priortables.shtml) for the sections contained in Chapter 55—Medical And Dental Care, from Jan. 3, 2007 to the most recent entry on Tuesday, December 23, 2008.

USC Classification Table, 110th, First Session (Public Laws 110-1 through 110-180) - Prepared by Office of the Law Revision Counsel, U.S. House of Representatives (January 8, 2008).

USC Classification Table, 110th, Second Session (Public Laws 110-181 through 110-460) - Prepared by Office of the Law Revision Counsel, U.S. House of Representatives (December 23, 2008).

Section	Description of Change	Public Law		Statutes at Large
		Law	Section	Volume STAT. Page(s)
First Session				
1071	nt new	110-28	3307	137
Second Session				
1071	prec	110-181	1617(b)	449
1071	prec	110-417	1061(b)(14)	4613
1071	nt	110-417	252	4400

TMA Version - March 2009

TMA Version - March 2009

Section	Description of Change	Public Law		Statutes at Large
		Law	Section	Volume STAT. Page(s)
1071	nt	110-417	722	4508
1071	nt	110-417	724	4509
1071	nt	110-417	1061(b)(13)	4613
1071	nt new	110-181	1601	431
1071	nt new	110-181	1602, 1603, 1611-1614	431-443
1071	nt new	110-181	1616	447
1071	nt new	110-181	1618, 1621-1623	450-455
1071	nt new	110-181	1631	458
1071	nt new	110-181	1635	460
1071	nt new	110-181	1644	467
1071	nt new	110-181	1648	473
1071	nt new	110-181	1651	476
1071	nt new	110-181	1662	479
1071	nt new	110-181	1671, 1672	481
1071	nt new	110-181	1676	484
1071	nt new	110-417	705	4499
1071	nt new	110-417	721	4506
1072		110-181	708(a)	190
1073	nt	110-181	1063(i)	324
1073	nt new	110-181	711	190
1073	nt new	110-181	717(a)	196
1073	nt new	110-329	8095	3642
1073	nt repealed	110-181	711(d)	193
1074		110-181	647(b)	161
1074		110-181	1633(a)	459
1074	nt new	110-181	1633(b)	459
1074	nt new	110-417	713	4503
1074a		110-417	735(a)	4513
1074f		110-181	1673(a)(1)	482
1074f		110-181	1673(b), (c)	483
1074f	nt new	110-181	1673(a)(2)	482
1074g		110-181	703(a)	188
1074g	nt	110-417	1061(b)(3)	4613
1074g	nt new	110-181	703(b)	188
1074i		110-181	1632(a), (b)	458, 459
1074i	nt new	110-181	1632(c)	459

Section	Description of Change	Public Law		Statutes at Large
		Law	Section	Volume STAT. Page(s)
1074l	new	110-181	1617(a)(1)	449
1074l	nt new	110-181	1617(a)(2)	449
1076	nt new	110-181	704	188
1076a		110-417	735(b)	4514
1076b	nt	110-181	1063(g)(1)	323
1076d		110-181	701(c)	188
1076d		110-417	704(a)	4498
1076d	nt	110-181	706(a)	189
1076d	nt new	110-181	706(b)	189
1076d	nt new	110-417	704(b)	4499
1076d	nt new	110-417	704(c)	4499
1078a		110-181	705	189
1079		110-417	732	4511
1079	nt new	110-417	711	4500
1086		110-181	701(b)	187
1086		110-417	701(b)	4498
1089		110-181	931(b)(3)	285
1092		110-417	715	4505
1092	nt	110-181	707	189
1092	nt	110-417	1061(e)	4613
1092	nt new	110-417	712	4501
1097		110-181	701(a)	187
1097		110-417	701(a)	4498

TMA Version - March 2009

TMA Version - March 2009

Change 1 Version: Title 10 of the USC as currently published by the US Government reflects the laws passed by Congress as of February 1, 2010.

The table below lists the classification updates (http://uscode.house.gov/classification/tables.shtml) for the sections contained in Chapter 55—Medical And Dental Care, from Jan. 3, 2007 to the most recent entry on Monday, February 1, 2010.

USC Classification Table, 111th, First Session (Public Laws 111-1 through 110-125, 111-128 through 111-135, and 111-137)—Prepared by Office of the Law Revision Counsel, U.S. House of Representatives (February 1, 2010).

Section	Description of Change	Public Law		Statutes at Large
		Law	Section	Volume STAT. Page(s)
First Session				
1071	prec	111-84	705(b)	2375
1071	prec	111-84	707(b)	2376
1071	nt	111-84	632(h)	2362
1071	nt new	111-84	596	2339
1071	nt new	111-84	711	2378
1071	nt new	111-84	714	2381
1071	nt new	111-84	721	2385
1073	nt new	111-84	713	2380
1074	111-84	702	2373	
1074f	111-84	1073(a)(9)	2472	
1074f	nt new	111-84	708	2376
1074f	nt new	111-84	712	2379
1074g	111-84	1073(a)(10)	2473	
1074g	nt	111-84	1073(c)(12)	2475
1074i	111-84	634	2363	
1076a	111-84	704	2373	
1076d	111-84	1073(a)(11)	2473	
1076e	new	111-84	705(a)	2374
1076e	nt new	111-84	705(c)	2375
1077	nt new	111-84	722	2387
1079	111-84	1073(a)(12)	2473	
1086	111-84	706	2375	
1086	111-84	709	2378	
1110a	new	111-84	707(a)	2376

§ 1071. Purpose of this chapter

The purpose of this chapter is to create and maintain high morale in the uniformed services by providing an improved and uniform program of medical and dental care for members and certain former members of those services, and for their dependents.

TMA Version - March 2009

NOTES

Source
(Added Pub. L. 85-861, Sec. 1(25)(B), Sept. 2, 1958, 72 Stat. 1445; amended Pub. L. 89-614, Sec. 2(1), Sept. 30, 1966, 80 Stat. 862; Pub. L. 96-513, title V, Sec. 511(34)(A), (B), Dec. 12, 1980, 94 Stat. 2922.)

HISTORICAL AND REVISION NOTES

REVISED SECTION	SOURCE (U.S. CODE)	SOURCE (STATUTES AT LARGE)
1071	37:401.	June 7, 1956, ch. 374, Sec. 101, 70 Stat. 250.

The words "and certain former members" are inserted to reflect the fact that many of the persons entitled to retired pay are former members only. The words "and dental" are inserted to reflect the fact that members and, in certain limited situations, dependents are entitled to dental care under sections 1071-1085 of this title.

Prior Provisions
A prior section 1071, act Aug. 10, 1956, ch. 1041, 70A Stat. 81, which stated the purpose of former sections 1071 to 1086 of this title, and provided for their construction, was repealed by Pub. L. 85-861, Sec. 36B(5), Sept. 2, 1958, 72 Stat. 1570, as superseded by the Federal Voting Assistance Act of 1955 which is classified to subchapter I-D (Sec. 1973cc et seq.) of chapter 20 of Title 42, The Public Health and Welfare.

Amendments
1980—Pub. L. 96-513 substituted "Purpose of this chapter" for "Purpose of sections 1071-1087 of this title" in section catchline, and substituted reference to this chapter for reference to sections 1071-1087 of this title in text.

1966—Pub. L. 89-614 substituted "1087" for "1085" in section catchline and text.

Effective Date Of 1980 Amendment
Amendment by Pub. L. 96-513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96-513, set out as a note under section 101 of this title.

Effective Date Of 1966 Amendment
Section 3 of Pub. L. 89-614 provided that: "The amendments made by this Act [see Short Title of 1966 Amendment note below] shall become effective January 1, 1967, except that those

amendments relating to outpatient care in civilian facilities for spouses and children of members of the uniformed services who are on active duty for a period of more than 30 days shall become effective on October 1, 1966."

Short Title Of 2008 Amendment

Pub. L. 110-181, div. A, title XVI, Sec. 1601, Jan. 28, 2008, 122 Stat. 431, provided that: "This title [enacting sections 1074l, 1216a, and 1554a of this title, amending sections 1074, 1074f, 1074i, 1145, 1201, 1203, 1212, and 1599c of this title and section 6333 of Title 5, Government Organization and Employees, and enacting provisions set out as notes under this section, sections 1074, 1074f, 1074i, 1074l, 1212, and 1554a of this title, and section 6333 of Title 5] may be cited as the 'Wounded Warrior Act'."

Short Title Of 1987 Amendment

Pub. L. 100-180, div. A, title VII, Sec. 701, Dec. 4, 1987, 101 Stat. 1108, provided that: "This title [enacting sections 1103, 2128 to 2130 [now 16201 to 16203], and 6392 of this title, amending sections 533, 591, 1079, 1086, 1251, 2120, 2122, 2123, 2124, 2127, 2172 [now 16302], 3353, 3855, 5600, 8353, and 8855 of this title, section 302 of Title 37, Pay and Allowances of the Uniformed Services, and section 460 of Title 50, Appendix, War and National Defense, enacting provisions set out as notes under sections 1073, 1074, 1079, 1092, 1103, 2121, 2124, 12201, and 16201 of this title, amending provisions set out as notes under sections 1073 and 1101 of this title, and repealing provisions set out as notes under sections 2121 and 2124 of this title] may be cited as the 'Military Health Care Amendments of 1987'."

Short Title Of 1966 Amendment

Section 1 of Pub. L. 89-614 provided: "That this Act [enacting sections 1086 and 1087 of this title, amending this section and sections 1072 to 1074, 1076 to 1079, 1082, and 1084 of this title, and enacting provisions set out as a note under this section] may be cited as the 'Military Medical Benefits Amendments of 1966'."

Comprehensive Plan On Prevention, Diagnosis, And Treatment Of Substance Use Disorders And Disposition Of Substance Abuse Offenders In The Armed Forces

Pub. L. 111-84, div. A, title V, Sec. 596, Oct. 28, 2009, 123 Stat. 2339, provided that:

"(a) Review and Assessment of Current Capabilities.—

(1) In general.—Not later than 180 days after the date of the enactment of this Act [Oct. 28, 2009], the Secretary of Defense, in consultation with the Secretaries of the military departments, shall conduct a comprehensive review of the following:

(A) The programs and activities of the Department of Defense for the prevention, diagnosis, and treatment of substance use disorders in members of the Armed Forces.

(B) The policies of the Department of Defense relating to the disposition of substance abuse offenders in the Armed Forces, including disciplinary action and administrative separation.

(2) Elements.—The review conducted under paragraph (1) shall include an assessment of each of the following:

(A) The current state and effectiveness of the programs of the Department of Defense and the military departments relating to the prevention, diagnosis, and treatment of substance use disorders.

(B) The adequacy of the availability of care, and access to care, for substance abuse in military medical treatment facilities and under the TRICARE program.

TMA Version - March 2009

(C) The adequacy of oversight by the Department of Defense of programs relating to the prevention, diagnosis, and treatment of substance abuse in members of the Armed Forces.

(D) The adequacy and appropriateness of current credentials and other requirements for healthcare professionals treating members of the Armed Forces with substance use disorders.

(E) The advisable ratio of physician and nonphysician care providers for substance use disorders to members of the Armed Forces with such disorders.

(F) The adequacy and appropriateness of protocols and directives for the diagnosis and treatment of substance use disorders in members of the Armed Forces and for the disposition, including disciplinary action and administrative separation, of members of the Armed Forces for substance abuse.

(G) The adequacy of the availability of and access to care for substance use disorders for members of the reserve components of the Armed Forces, including an identification of any obstacles that are unique to the prevention, diagnosis, and treatment of substance use disorders among members of the reserve components, and the appropriate disposition, including disciplinary action and administrative separation, of members of the reserve components for substance abuse.

(H) The adequacy of the prevention, diagnosis, and treatment of substance use disorders in dependents of members of the Armed Forces.

(I) Any gaps in the current capabilities of the Department of Defense for the prevention, diagnosis, and treatment of substance use disorders in members of the Armed Forces.

(3) Report.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report setting forth the findings and recommendations of the Secretary as a result of the review conducted under paragraph (1). The report shall—

(A) set forth the findings and recommendations of the Secretary regarding each element of the review specified in paragraph (2);

(B) set forth relevant statistics on the frequency of substance use disorders, disciplinary actions, and administrative separations for substance abuse in members of the regular components of the Armed Forces, members of the reserve component of the Armed Forces, and to the extent applicable, dependents of such members (including spouses and children); and

(C) include such other findings and recommendations on improvements to the current capabilities of the Department of Defense for the prevention, diagnosis, and treatment of substance use disorders in members of the Armed Forces and the policies relating to the disposition, including disciplinary action and administrative separation, of members of the Armed Forces for substance abuse, as the Secretary considers appropriate.

"(b) Plan for Improvement and Enhancement of Programs and Policies.—

(1) Plan required.—Not later than 270 days after the date of the enactment of this Act [Oct. 28, 2009], the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a comprehensive plan for the improvement and enhancement of the following:

(A) The programs and activities of the Department of Defense for the prevention, diagnosis, and treatment of substance use disorders in members of the Armed Forces and their dependents.

TMA Version - March 2009

TMA Version - March 2009

(B) The policies of the Department of Defense relating to the disposition of substance abuse offenders in the Armed Forces, including disciplinary action and administrative separation.

(2) Basis.—The comprehensive plan required by paragraph (1) shall take into account the following:

(A) The results of the review and assessment conducted under subsection (a).

(B) Similar initiatives of the Secretary of Veterans Affairs to expand and improve care for substance use disorders among veterans, including the programs and activities conducted under title I of the Veterans' Mental Health and Other Care Improvements Act of 2008 (Public Law 110-387; 112 Stat. 4112) [see Tables for classification].

(3) Comprehensive statement of policy.—The comprehensive plan required by paragraph (1) shall include a comprehensive statement of the following:

(A) The policy of the Department of Defense regarding the prevention, diagnosis, and treatment of substance use disorders in members of the Armed Forces and their dependents.

(B) The policies of the Department of Defense relating to the disposition of substance abuse offenders in the Armed Forces, including disciplinary action and administrative separation.

(4) Availability of services and treatment.—The comprehensive plan required by paragraph (1) shall include mechanisms to ensure the availability to members of the Armed Forces and their dependents of a core of evidence-based practices across the spectrum of medical and non-medial services and treatments for substance use disorders, including the reestablishment of regional long-term inpatient substance abuse treatment programs. The Secretary may use contracted services for not longer than three years after the date of the enactment of this Act to perform such inpatient substance abuse treatment until the Department of Defense reestablishes this capability within the military health care system.

(5) Prevention and reduction of disorders.—The comprehensive plan required by paragraph (1) shall include mechanisms to facilitate the prevention and reduction of substance use disorders in members of the Armed Forces through science-based initiatives, including education programs, for members of the Armed Forces and their dependents.

(6) Specific instructions.—The comprehensive plan required by paragraph (1) shall include each of the following:

(A) Substances of abuse.—Instructions on the prevention, diagnosis, and treatment of substance abuse in members of the Armed Forces, including the abuse of alcohol, illicit drugs, and nonmedical use and abuse of prescription drugs.

(B) Healthcare professionals.—Instructions on—

(i) appropriate training of healthcare professionals in the prevention, screening, diagnosis, and treatment of substance use disorders in members of the Armed Forces;

(ii) appropriate staffing levels for healthcare professionals at military medical treatment facilities for the prevention, screening, diagnosis, and treatment of substance use disorders in members of the Armed Forces; and

(iii) such uniform training and credentialing requirements for physician and nonphysician healthcare professionals in the prevention, screening, diagnosis, and treatment of substance use disorders in members of the Armed Forces as the Secretary considers appropriate.

(C) Services for dependents.—Instructions on the availability of services for substance use disorders for dependents of members of the Armed Forces, including instructions on making such services available to dependents to the maximum extent practicable.

(D) Relationship between disciplinary action and treatment.—Policy on the relationship between disciplinary actions and administrative separation processing and prevention and treatment of substance use disorders in members of the Armed Forces.

(E) Confidentiality.—Recommendations regarding policies pertaining to confidentiality for members of the Armed Forces in seeking or receiving services or treatment for substance use disorders.

(F) Participation of chain of command.—Policy on appropriate consultation, reference to, and involvement of the chain of command of members of the Armed Forces in matters relating to the diagnosis and treatment of substance abuse and disposition of members of the Armed Forces for substance abuse.

(G) Consideration of gender.—Instructions on gender specific requirements, if appropriate, in the prevention, diagnosis, treatment, and management of substance use disorders in members of the Armed Forces, including gender specific care and treatment requirements.

(H) Coordination with other healthcare initiatives.—Instructions on the integration of efforts on the prevention, diagnosis, treatment, and management of substance use disorders in members of the Armed Forces with efforts to address co- occurring health care disorders (such as post-traumatic stress disorder and depression) and suicide prevention.

(7) Other elements.—In addition to the matters specified in paragraph (3), the comprehensive plan required by paragraph (1) shall include the following:

(A) Implementation plan.—An implementation plan for the achievement of the goals of the comprehensive plan, including goals relating to the following:

(i) Enhanced education of members of the Armed Forces and their dependents regarding substance use disorders.

(ii) Enhanced and improved identification and diagnosis of substance use disorders in members of the Armed Forces and their dependents.

(iii) Enhanced and improved access of members of the Armed Forces to services and treatment for and management of substance use disorders.

(iv) Appropriate staffing of military medical treatment facilities and other facilities for the treatment of substance use disorders in members of the Armed Forces.

(B) Best practices.—The incorporation of evidence-based best practices utilized in current military and civilian approaches to the prevention, diagnosis, treatment, and management of substance use disorders.

(C) Available research.—The incorporation of applicable results of available studies, research, and academic reviews on the prevention, diagnosis, treatment, and management of substance use disorders.

(8) Update in light of independent study.—Upon the completion of the study required by subsection (c), the Secretary of Defense shall—

(A) in consultation with the Secretaries of the military departments, make such modifications and improvements to the comprehensive plan required by paragraph (1) as the Secretary of Defense considers appropriate in light of the findings and recommendations of the study; and

(B) submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report setting forth the comprehensive plan as modified and improved under subparagraph (A).

TMA Version - March 2009

TMA Version - March 2009

"(c) Independent Report on Substance Use Disorders Programs for Members of the Armed Forces.—

(1) Study required.—Upon completion of the policy review required by subsection (a), the Secretary of Defense shall provide for a study on substance use disorders programs for members of the Armed Forces to be conducted by the Institute of Medicine of the National Academies of Sciences or such other independent entity as the Secretary shall select for purposes of the study.

(2) Elements.—The study required by paragraph (1) shall include a review and assessment of the following:

(A) The adequacy and appropriateness of protocols for the diagnosis, treatment, and management of substance use disorders in members of the Armed Forces.

(B) The adequacy of the availability of and access to care for substance use disorders in military medical treatment facilities and under the TRICARE program.

(C) The adequacy and appropriateness of current credentials and other requirements for physician and non-physician healthcare professionals treating members of the Armed Forces with substance use disorders.

(D) The advisable ratio of physician and non-physician care providers for substance use disorders to members of the Armed Forces with such disorders.

(E) The adequacy of the availability of and access to care for substance use disorders for members of the reserve components of the Armed Forces when compared with the availability of and access to care for substance use disorders for members of the regular components of the Armed Forces.

(F) The adequacy of the prevention, diagnosis, treatment, and management of substance use disorders programs for dependents of members of the Armed Forces, whether such dependents suffer from their own substance use disorder or because of the substance use disorder of a member of the Armed Forces.

(G) Such other matters as the Secretary considers appropriate for purposes of the study.

(3) Report.—Not later than two years after the date of the enactment of this Act [Oct. 28, 2009], the entity conducting the study required by paragraph (1) shall submit to the Secretary of Defense and the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the results of the study. The report shall set forth the findings and recommendations of the entity as a result of the study."

Comprehensive Policy On Pain Management By The Military Health Care System

Pub. L. 111-84, div. A, title VII, Sec. 711, Oct. 28, 2009, 123 Stat. 2378, provided that:

"(a) Comprehensive Policy Required.—Not later than March 31, 2011, the Secretary of Defense shall develop and implement a comprehensive policy on pain management by the military health care system.

"(b) Scope of Policy.—The policy required by subsection (a) shall cover each of the following:

(1) The management of acute and chronic pain.

(2) The standard of care for pain management to be used throughout the Department of Defense.

(3) The consistent application of pain assessments throughout the Department of Defense.

(4) The assurance of prompt and appropriate pain care treatment and management by the Department when medically necessary.

(5) Programs of research related to acute and chronic pain, including pain attributable to central and peripheral nervous system damage characteristic of injuries incurred in modern warfare, brain injuries, and chronic migraine headache.

(6) Programs of pain care education and training for health care personnel of the Department.

(7) Programs of patient education for members suffering from acute or chronic pain and their families.

"(c) Updates.—The Secretary shall revise the policy required by subsection (a) on a periodic basis in accordance with experience and evolving best practice guidelines.

"(d) Annual Report.—

(1) In general.—Not later than 180 days after the date of the commencement of the implementation of the policy required by subsection (a), and on October 1 each year thereafter through 2018, the Secretary shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the policy.

(2) Elements.—Each report required by paragraph (1) shall include the following:

(A) A description of the policy implemented under subsection (a), and any revisions to such policy under subsection (c).

(B) A description of the performance measures used to determine the effectiveness of the policy in improving pain care for beneficiaries enrolled in the military health care system.

(C) An assessment of the adequacy of Department pain management services based on a current survey of patients managed in Department clinics.

(D) An assessment of the research projects of the Department relevant to the treatment of the types of acute and chronic pain suffered by members of the Armed Forces and their families.

(E) An assessment of the training provided to Department health care personnel with respect to the diagnosis, treatment, and management of acute and chronic pain.

(F) An assessment of the pain care education programs of the Department.

(G) An assessment of the dissemination of information on pain management to beneficiaries enrolled in the military health care system."

Plan To Increase The Mental Health Capabilities Of The Department Of Defense

Pub. L. 111-84, div. A, title VII, Sec. 714, Oct. 28, 2009, 123 Stat. 2381, provided that:

"(a) Increased Authorizations.—Not later than 180 days after the date of the enactment of this Act [Oct. 28, 2009], the Secretary of each military department shall increase the number of active duty mental health personnel authorized for the department under the jurisdiction of the Secretary in an amount equal to the sum of the following amounts:

(1) The greater of—

(A) the amount identified on personnel authorization documents as required but not authorized to be filled; or

(B) the amount that is 25 percent of the amount identified on personnel authorization documents as authorized.

(2) The amount required to fulfill the requirements of section 708 [10 U.S.C. 1074f note], as determined by the Secretary concerned.

"(b) Report and Plan on the Required Number of Mental Health Personnel.—

(1) In general.—Not later than one year after the date of the enactment of this Act [Oct. 28, 2009], the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the appropriate number of mental health personnel required

TMA Version - March 2009

TMA Version - March 2009

to meet the mental health care needs of members of the Armed Forces, retired members, and dependents. The report shall include, at a minimum, the following:

(A) An evaluation of the recommendation titled 'Ensure an Adequate Supply of Uniformed Providers' made by the Department of Defense Task Force on Mental Health established by section 723 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109-163; 119 Stat. 3348).

(B) The criteria and models used to determine the appropriate number of mental health personnel.

(C) The plan under paragraph (2).

(2) Plan.—The Secretary shall develop and implement a plan to significantly increase the number of military and civilian mental health personnel of the Department of Defense by September 30, 2013. The plan may include the following:

(A) The allocation of scholarships and financial assistance under the Health Professions Scholarship and Financial Assistance Program under subchapter I of chapter 105 of title 10, United States Code, to students pursuing advanced degrees in clinical psychology and other mental health professions.

(B) The offering of accession and retention bonuses for psychologists pursuant to section 620 of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Public Law 110-417; 122 Stat. 4489) [enacting section 302c-1 of Title 37, Pay and Allowances of the Uniformed Services, and provisions set out as a note under section 335 of Title 37].

(C) An expansion of the capacity for training doctoral-level clinical psychologists at the Uniformed Services University of the Health Sciences.

(D) An expansion of the capacity of the Department of Defense for training masters-level clinical psychologists and social workers with expertise in deployment-related mental health disorders, such as post-traumatic stress disorder.

(E) The detail of commissioned officers of the Armed Forces to accredited schools of psychology for training leading to a doctoral degree in clinical psychology or social work.

(F) The reassignment of military mental health personnel from administrative positions to clinical positions in support of military units.

(G) The offering of civilian hiring incentives and bonuses and the use of direct hiring authority to increase the number of mental health personnel of the Department of Defense.

(H) Such other mechanisms to increase the number of mental health personnel of the Department of Defense as the Secretary considers appropriate.

"(c) Report on Additional Officer or Enlisted Military Specialties for Mental Health.—

(1) Report.—Not later than 120 days after the date of the enactment of this Act [Oct. 28, 2009], the Secretary shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report setting forth the assessment of the Secretary of the feasability [sic] and advisability of establishing one or more military mental health specialities for officers or enlisted members of the Armed Forces in order to better meet the mental health care needs of members of the Armed Forces and their families.

(2) Elements.—The report required by paragraph (1) shall set forth the following:

(A) A recommendation as to the feasability [sic] and advisability of establishing one or more military mental health specialities for officers or enlisted members of the Armed Forces.

(B) For each military specialty recommended to be established under subparagraph (A)—

(i) a description of the qualifications required for such speciality, which shall reflect lessons learned from best practices in academia and the civilian health care industry regarding positions analogous to such specialty; and

(ii) a description of the incentives or other mechanisms, if any, that would be advisable to facilitate recruitment and retention of individuals to and in such specialty.

Study And Plan To Improve Military Health Care

Pub. L. 111-84, div. A, title VII, Sec. 721, Oct. 28, 2009, 123 Stat. 2385, provided that:

"(a) Study and Report Required.—Not later than one year after the date of the enactment of this Act [Oct. 28, 2009], the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the health care needs of dependents (as defined in section 1072(2) of title 10, United States Code). The report shall include, at a minimum, the following:

(1) With respect to both the direct care system and the purchased care system, an analysis of the type of health care facility in which dependents seek care.

(2) The 10 most common medical conditions for which dependents seek care.

(3) The availability of and access to health care providers to treat the conditions identified under paragraph (2), both in the direct care system and the purchased care system.

(4) Any shortfalls in the ability of dependents to obtain required health care services.

(5) Recommendations on how to improve access to care for dependents.

(6) With respect to dependents accompanying a member stationed at a military installation outside of the United States, the need for and availability of mental health care services.

"(b) Enhanced Military Health System and Improved TRICARE.—

(1) In general.—The Secretary of Defense, in consultation with the other administering Secretaries, shall undertake actions to enhance the capability of the military health system and improve the TRICARE program.

(2) Elements.—In undertaking actions to enhance the capability of the military health system and improve the TRICARE program under paragraph (1), the Secretary shall consider the following actions:

(A) Actions to guarantee the availability of care within established access standards for eligible beneficiaries, based on the results of the study required by subsection (a).

(B) Actions to expand and enhance sharing of health care resources among Federal health care programs, including designated providers (as that term is defined in section 721(5) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104-201; 110 Stat. 2593; 10 U.S.C. 1073 note)).

(C) Actions using medical technology to speed and simplify referrals for specialty care.

(D) Actions to improve regional or national staffing capabilities in order to enhance support provided to military medical treatment facilities facing staff shortages.

(E) Actions to improve health care access for members of the reserve components and their families, including such access with respect to mental health care and consideration of access issues for members and their families located in rural areas.

(F) Actions to ensure consistency throughout the TRICARE program to comply with access standards, which are applicable to both commanders of military treatment facilities and managed care support contractors.

(G) Actions to create new budgeting and resource allocation methodologies to fully support and incentivize care provided by military treatment facilities.

TMA Version - March 2009

TMA Version - March 2009

(H) Actions regarding additional financing options for health care provided by civilian providers.
(I) Actions to reduce administrative costs.
(J) Actions to control the cost of health care and pharmaceuticals.
(K) Actions to audit the Defense Enrollment Eligibility Reporting System to improve system checks on the eligibility of TRICARE beneficiaries.
(L) Actions, including a comprehensive plan, for the enhanced availability of prevention and wellness care.
(M) Actions using technology to improve direct communication with beneficiaries regarding health and preventive care.
(N) Actions to create performance metrics by which to measure improvement in the TRICARE program.
(O) Such other actions as the Secretary, in consultation with the other administering Secretaries, considers appropriate.

"(c) Quality Assurance.—In undertaking actions under this section, the Secretary of Defense and the other administering Secretaries shall continue or enhance the current level of quality health care provided by the Department of Defense and the military departments with no adverse impact to cost, access, or care.

"(d) Consultation.—In considering actions to be undertaken under this section, and in undertaking such actions, the Secretary shall consult with a broad range of national health care and military advocacy organizations.

"(e) Reports Required.—

(1) Initial report.—Not later than 180 days after the date of the enactment of this Act [Oct. 28, 2009], the Secretary shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] an initial report on the progress made in undertaking actions under this section and future plans for improvement of the military health system.

(2) Report required with fiscal year 2012 budget proposal.—Together with the budget justification materials submitted to Congress in support of the Department of Defense budget for fiscal year 2012 (as submitted with the budget of the President under section 1105(a) of title 31, United States Code), the Secretary shall submit to the congressional defense committees a report setting forth the following:

(A) Updates on the progress made in undertaking actions under this section.
(B) Future plans for improvement of the military health system.
(C) An explanation of how the budget submission may reflect such progress and plans.

(3) Periodic reports.—The Secretary shall, on a periodic basis, submit to the congressional defense committees a report on the progress being made in the improvement of the TRICARE program under this section.

(4) Elements.—Each report under this subsection shall include the following:

(A) A description and assessment of the progress made as of the date of such report in the improvement of the TRICARE program.
(B) Such recommendations for administrative or legislative action as the Secretary considers appropriate to expedite and enhance the improvement of the TRICARE program.

"(f) Definitions.—In this section:

(1) The term 'administering Secretaries' has the meaning given that term in section 1072(3) of title 10, United States Code.

(2) The term 'TRICARE program' has the meaning given that term in section 1072(7) of title 10, United States Code."

Program For Health Care Delivery At Military Installations With Projected Growth

Pub. L. 110-417, [div. A], title VII, Sec. 705, Oct. 14, 2008, 122 Stat. 4499, provided that:

"(a) Program.—The Secretary of Defense is authorized to develop a plan to establish a program to build cooperative health care arrangements and agreements between military installations projected to grow and local and regional non-military health care systems.

"(b) Requirements of Plan.—In developing the plan, the Secretary of Defense shall—

(1) identify and analyze health care delivery options involving the private sector and health care services in military facilities located on military installations;

(2) develop methods for determining the cost avoidance or savings resulting from innovative partnerships between the Department of Defense and the private sector;

(3) develop requirements for Department of Defense health care providers to deliver health care in civilian community hospitals; and

(4) collaborate with State and local authorities to create an arrangement to share and exchange, between the Department of Defense and nonmilitary health care systems, personal health information, and data of military personnel and their families.

"(c) Coordination With Other Entities.—The plan shall include requirements for coordination with Federal, State, and local entities, TRICARE managed care support contractors, and other contracted assets around installations selected for participation in the program.

"(d) Consultation Requirements.—The Secretary of Defense shall develop the plan in consultation with the Secretaries of the military departments.

"(e) Selection of Military Installations.—Each selected military installation shall meet the following criteria:

(1) The military installation has members of the Armed Forces on active duty and members of reserve components of the Armed Forces that use the installation as a training and operational base, with members routinely deploying in support of the global war on terrorism.

(2) The military population of an installation will significantly increase by 2013 due to actions related to either Grow the Force initiatives or recommendations of the Defense Base Realignment and Closure Commission.

(3) There is a military treatment facility on the installation that has—

(A) no inpatient or trauma center care capabilities; and

(B) no current or planned capacity that would satisfy the proposed increase in military personnel at the installation.

(4) There is a civilian community hospital near the military installation, and the military treatment facility has—

(A) no inpatient services or limited capability to expand inpatient care beds, intensive care, and specialty services; and

(B) limited or no capability to provide trauma care.

"(f) Reports.—Not later than one year after the date of the enactment of this Act [Oct. 14, 2008], and every year thereafter, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives an annual report on any plan developed under subsection (a)."

Center Of Excellence In Prevention, Diagnosis, Mitigation, Treatment, And Rehabilitation Of Hearing Loss And Auditory System Injuries

Pub. L. 110-417, [div. A], title VII, Sec. 721, Oct. 14, 2008, 122 Stat. 4506, provided that:

"(a) In General.—The Secretary of Defense shall establish within the Department of Defense a center of excellence in the prevention, diagnosis, mitigation, treatment, and rehabilitation of hearing loss and auditory system injury to carry out the responsibilities specified in subsection (c).

TMA Version - March 2009

TMA Version - March 2009

"(b) Partnerships.—The Secretary shall ensure that the center collaborates to the maximum extent practicable with the Secretary of Veterans Affairs, institutions of higher education, and other appropriate public and private entities (including international entities) to carry out the responsibilities specified in subsection (c).

"(c) Responsibilities.—

(1) In general.—The center shall—

(A) implement a comprehensive plan and strategy for the Department of Defense, as developed by the Secretary of Defense, for a registry of information for the tracking of the diagnosis, surgical intervention or other operative procedure, other treatment, and follow up for each case of hearing loss and auditory system injury incurred by a member of the Armed Forces while serving on active duty;

(B) ensure the electronic exchange with the Secretary of Veterans Affairs of information obtained through tracking under subparagraph (A); and

(C) enable the Secretary of Veterans Affairs to access the registry and add information pertaining to additional treatments or surgical procedures and eventual hearing outcomes for veterans who were entered into the registry and subsequently received treatment through the Veterans Health Administration.

(2) Designation of registry.—The registry under this subsection shall be known as the 'Hearing Loss and Auditory System Injury Registry' (hereinafter referred to as the 'Registry').

(3) Consultation in development.—The center shall develop the Registry in consultation with audiologists, speech and language pathologists, otolaryngologists, and other specialist personnel of the Department of Defense and the audiologists, speech and language pathologists, otolaryngologists, and other specialist personnel of the Department of Veterans Affairs. The mechanisms and procedures of the Registry shall reflect applicable expert research on military and other hearing loss.

(4) Mechanisms.—The mechanisms of the Registry for tracking under paragraph (1)(A) shall ensure that each military medical treatment facility or other medical facility shall submit to the center for inclusion in the Registry information on the diagnosis, surgical intervention or other operative procedure, other treatment, and follow up for each case of hearing loss and auditory system injury described in that paragraph as follows (to the extent applicable):

(A) Not later than 30 days after surgery or other operative intervention, including a surgery or other operative intervention carried out as a result of a follow-up examination.

(B) Not later than 180 days after the hearing loss and auditory system injury is reported or recorded in the medical record.

(5) Coordination of care and benefits.—

(A) The center shall provide notice to the National Center for Rehabilitative Auditory Research (NCRAR) of the Department of Veterans Affairs and to the auditory system impairment services of the Veterans Health Administration on each member of the Armed Forces described in subparagraph (B) for purposes of ensuring the coordination of the provision of ongoing auditory system rehabilitation benefits and services by the Department of Veterans Affairs after the separation or release of such member from the Armed Forces.

(B) A member of the Armed Forces described in this subparagraph is a member of the Armed Forces with significant hearing loss or auditory system injury incurred while serving on active duty, including a member with auditory dysfunction related to traumatic brain injury.

"(d) Utilization of Registry Information.—The Secretary of Defense and the Secretary of Veterans Affairs shall jointly ensure that information in the Registry is available to appropriate

audiologists, speech and language pathologists, otolaryngologists, and other specialist personnel of the Department of Defense and the Department of Veterans Affairs for purposes of encouraging and facilitating the conduct of research, and the development of best practices and clinical education, on hearing loss or auditory system injury incurred by members of the Armed Forces.

"(e) Inclusion of Records of OIF/OEF Veterans.—The Secretary of Defense shall take appropriate actions to include in the Registry such records of members of the Armed Forces who incurred a hearing loss or auditory system injury while serving on active duty on or after September 11, 2001, but before the establishment of the Registry, as the Secretary considers appropriate for purposes of the Registry."

Wounded Warrior Health Care Improvements

Pub. L. 110-181, div. A, title XVI, Secs. 1602, 1603, 1611-1614, 1616, 1618, 1621-1623, 1631, 1635, 1644, 1648, 1651, 1662, 1671, 1672, 1676, Jan. 28, 2008, 122 Stat. 431-443, 447, 450-455, 458, 460, 467, 473, 476, 479, 481, 484, as amended by Pub. L. 110-417, [div. A], title II, Sec. 252, title VII, Secs. 722, 724, title X, Sec. 1061(b)(13), Oct. 14, 2008, 122 Stat. 4400, 4508, 4509, 4613; Pub. L. 111-84, div. A, title VI, Sec. 632(h), Oct. 28, 2009, 123 Stat. 2362, provided that:

"SEC. 1602. GENERAL DEFINITIONS.

"In this title [see Short Title of 2008 Amendment note above]:

(1) Appropriate committees of congress.—The term 'appropriate committees of Congress' means—

(A) the Committees on Armed Services, Veterans' Affairs, and Appropriations of the Senate; and

(B) the Committees on Armed Services, Veterans' Affairs, and Appropriations of the House of Representatives.

(2) Benefits delivery at discharge program.—The term 'Benefits Delivery at Discharge Program' means a program administered jointly by the Secretary of Defense and the Secretary of Veterans Affairs to provide information and assistance on available benefits and other transition assistance to members of the Armed Forces who are separating from the Armed Forces, including assistance to obtain any disability benefits for which such members may be eligible.

(3) Disability evaluation system.—The term 'Disability Evaluation System' means the following:

(A) A system or process of the Department of Defense for evaluating the nature and extent of disabilities affecting members of the Armed Forces that is operated by the Secretaries of the military departments and is comprised of medical evaluation boards, physical evaluation boards, counseling of members, and mechanisms for the final disposition of disability evaluations by appropriate personnel.

(B) A system or process of the Coast Guard for evaluating the nature and extent of disabilities affecting members of the Coast Guard that is operated by the Secretary of Homeland Security and is similar to the system or process of the Department of Defense described in subparagraph (A).

(4) Eligible family member.—The term 'eligible family member', with respect to a recovering service member, means a family member (as defined in section 411h(b)(3)(B) of title 37, United States Code) who is on invitational travel orders or serving as a non-medical attendee while caring for the recovering service member for more than 45 days during a one-year period.

(5) Medical care.—The term 'medical care' includes mental health care.

TMA Version - March 2009

TMA Version - March 2009

(6) Outpatient status.—The term 'outpatient status', with respect to a recovering service member, means the status of a recovering service member assigned to—

(A) a military medical treatment facility as an outpatient; or

(B) a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients.

(7) Recovering service member.—The term 'recovering service member' means a member of the Armed Forces, including a member of the National Guard or a Reserve, who is undergoing medical treatment, recuperation, or therapy and is in an outpatient status while recovering from a serious injury or illness related to the member's military service.

(8) Serious injury or illness.—The term 'serious injury or illness', in the case of a member of the Armed Forces, means an injury or illness incurred by the member in line of duty on active duty in the Armed Forces that may render the member medically unfit to perform the duties of the member's office, grade, rank, or rating.

(9) TRICARE program.—The term 'TRICARE program' has the meaning given that term in section 1072(7) of title 10, United States Code. [As amended Pub. L. 110-417, [div. A], title X, Sec. 1061(b)(13), Oct. 14, 2008, 122 Stat. 4613; Pub. L. 111-84, div. A, title VI, Sec. 632(h), Oct. 28, 2009, 123 Stat. 2362.]

"SEC. 1603. CONSIDERATION OF GENDER-SPECIFIC NEEDS OF RECOVERING SERVICE MEMBERS AND VETERANS.

"(a) In General.—In developing and implementing the policy required by section 1611(a), and in otherwise carrying out any other provision of this title [see Short Title of 2008 Amendment note above] or any amendment made by this title, the Secretary of Defense and the Secretary of Veterans Affairs shall take into account and fully address any unique gender-specific needs of recovering service members and veterans under such policy or other provision.

"(b) Reports.—In submitting any report required by this title or an amendment made by this title, the Secretary of Defense and the Secretary of Veterans Affairs shall, to the extent applicable, include a description of the manner in which the matters covered by such report address the unique gender-specific needs of recovering service members and veterans.

"SEC. 1611. COMPREHENSIVE POLICY ON IMPROVEMENTS TO CARE, MANAGEMENT, AND TRANSITION OF RECOVERING SERVICE MEMBERS.

"(a) Comprehensive Policy Required.—

(1) In general.—Not later than July 1, 2008, the Secretary of Defense and the Secretary of Veterans Affairs shall, to the extent feasible, jointly develop and implement a comprehensive policy on improvements to the care, management, and transition of recovering service members.

(2) Scope of policy.—The policy shall cover each of the following:

(A) The care and management of recovering service members.

(B) The medical evaluation and disability evaluation of recovering service members.

(C) The return of service members who have recovered to active duty when appropriate.

(D) The transition of recovering service members from receipt of care and services through the Department of Defense to receipt of care and services through the Department of Veterans Affairs.

(3) Consultation.—The Secretary of Defense and the Secretary of Veterans Affairs shall develop the policy in consultation with the heads of other appropriate departments and agencies of the Federal Government and with appropriate non-governmental organizations having an expertise in matters relating to the policy.

(4) Update.—The Secretary of Defense and the Secretary of Veterans Affairs shall jointly update the policy on a periodic basis, but not less often than annually, in order to incorporate in the policy, as appropriate, the following:

(A) The results of the reviews required under subsections (b) and (c).

(B) Best practices identified through pilot programs carried out under this title.

(C) Improvements to matters under the policy otherwise identified and agreed upon by the Secretary of Defense and the Secretary of Veterans Affairs.

"(b) Review of Current Policies and Procedures.—

(1) Review required.—In developing the policy required by subsection (a), the Secretary of Defense and the Secretary of Veterans Affairs shall, to the extent necessary, jointly and separately conduct a review of all policies and procedures of the Department of Defense and the Department of Veterans Affairs that apply to, or shall be covered by, the policy.

(2) Purpose.—The purpose of the review shall be to identify the most effective and patient-oriented approaches to care and management of recovering service members for purposes of—

(A) incorporating such approaches into the policy; and

(B) extending such approaches, where applicable, to the care and management of other injured or ill members of the Armed Forces and veterans.

(3) Elements.—In conducting the review, the Secretary of Defense and the Secretary of Veterans Affairs shall—

(A) identify among the policies and procedures described in paragraph (1) best practices in approaches to the care and management of recovering service members;

(B) identify among such policies and procedures existing and potential shortfalls in the care and management of recovering service members (including care and management of recovering service members on the temporary disability retired list), and determine means of addressing any shortfalls so identified;

(C) determine potential modifications of such policies and procedures in order to ensure consistency and uniformity, where appropriate, in the application of such policies and procedures—

(i) among the military departments;

(ii) among the Veterans Integrated Services Networks (VISNs) of the Department of Veterans Affairs; and

(iii) between the military departments and the Veterans Integrated Services Networks; and

(D) develop recommendations for legislative and administrative action necessary to implement the results of the review.

(4) Deadline for completion.—The review shall be completed not later than 90 days after the date of the enactment of this Act [Jan. 28, 2008].

"(c) Consideration of Existing Findings, Recommendations, and Practices.—In developing the policy required by subsection (a), the Secretary of Defense and the Secretary of Veterans Affairs shall take into account the following:

(1) The findings and recommendations of applicable studies, reviews, reports, and evaluations that address matters relating to the policy, including, but not limited, to the following:

(A) The Independent Review Group on Rehabilitative Care and Administrative Processes at Walter Reed Army Medical Center and National Naval Medical Center, appointed by the Secretary of Defense.

(B) The Secretary of Veterans Affairs Task Force on Returning Global War on Terror Heroes, appointed by the President.

(C) The President's Commission on Care for America's Returning Wounded Warriors.

TMA Version - March 2009

TMA Version - March 2009

(D) The Veterans' Disability Benefits Commission established by title XV of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108-136; 117 Stat. 1676; 38 U.S.C. 1101 note).

(E) The President's Task Force to Improve Health Care Delivery for Our Nation's Veterans, of March 2003.

(F) The Report of the Congressional Commission on Servicemembers and Veterans Transition Assistance, of 1999, chaired by Anthony J. Principi.

(G) The President's Commission on Veterans' Pensions, of 1956, chaired by General Omar N. Bradley.

(2) The experience and best practices of the Department of Defense and the military departments on matters relating to the policy.

(3) The experience and best practices of the Department of Veterans Affairs on matters relating to the policy.

(4) Such other matters as the Secretary of Defense and the Secretary of Veterans Affairs consider appropriate.

"(d) Training and Skills of Health Care Professionals, Recovery Care Coordinators, Medical Care Case Managers, and Non-Medical Care Managers for Recovering Service Members.—

(1) In general.—The policy required by subsection (a) shall provide for uniform standards among the military departments for the training and skills of health care professionals, recovery care coordinators, medical care case managers, and non-medical care managers for recovering service members under subsection (e) in order to ensure that such personnel are able to—

(A) detect early warning signs of post-traumatic stress disorder (PTSD), suicidal or homicidal thoughts or behaviors, and other behavioral health concerns among recovering service members; and

(B) promptly notify appropriate health care professionals following detection of such signs.

(2) Tracking of notifications.—In providing for uniform standards under paragraph (1), the policy shall include a mechanism or system to track the number of notifications made by recovery care coordinators, medical care case managers, and non- medical care managers to health care professionals under paragraph (1)(A) regarding early warning signs of post-traumatic stress disorder and suicide in recovering service members.

"(e) Services for Recovering Service Members.—The policy required by subsection (a) shall provide for improvements as follows with respect to the care, management, and transition of recovering service members:

(1) Comprehensive recovery plan for recovering service members.—The policy shall provide for uniform standards and procedures for the development of a comprehensive recovery plan for each recovering service member that covers the full spectrum of care, management, transition, and rehabilitation of the service member during recovery.

(2) Recovery care coordinators for recovering service members.—

(A) In general.—The policy shall provide for a uniform program for the assignment to recovering service members of recovery care coordinators having the duties specified in subparagraph (B).

(B) Duties.—The duties under the program of a recovery care coordinator for a recovering service member shall include, but not be limited to, overseeing and assisting the service member in the service member's course through the entire spectrum of care, management, transition, and rehabilitation services available from the Federal Government, including services provided by the Department of Defense, the Department of Veterans Affairs, the Department of Labor, and the Social Security Administration.

(C) Limitation on number of service members managed by coordinators.—The maximum number of recovering service members whose cases may be assigned to a recovery care coordinator under the program at any one time shall be such number as the policy shall specify, except that the Secretary of the military department concerned may waive such limitation with respect to a given coordinator for not more than 120 days in the event of unforeseen circumstances (as specified in the policy).

(D) Training.—The policy shall specify standard training requirements and curricula for recovery care coordinators under the program, including a requirement for successful completion of the training program before a person may assume the duties of such a coordinator.

(E) Resources.—The policy shall include mechanisms to ensure that recovery care coordinators under the program have the resources necessary to expeditiously carry out the duties of such coordinators under the program.

(F) Supervision.—The policy shall specify requirements for the appropriate rank or grade, and appropriate occupation, for persons appointed to head and supervise recovery care coordinators.

(3) Medical care case managers for recovering service members.—

(A) In general.—The policy shall provide for a uniform program among the military departments for the assignment to recovering service members of medical care case managers having the duties specified in subparagraph (B).

(B) Duties.—The duties under the program of a medical care case manager for a recovering service member (or the service member's immediate family or other designee if the service member is incapable of making judgments about personal medical care) shall include, at a minimum, the following:

(i) Assisting in understanding the service member's medical status during the care, recovery, and transition of the service member.

(ii) Assisting in the receipt by the service member of prescribed medical care during the care, recovery, and transition of the service member.

(iii) Conducting a periodic review of the medical status of the service member, which review shall be conducted, to the extent practicable, in person with the service member, or, whenever the conduct of the review in person is not practicable, with the medical care case manager submitting to the manager's supervisor a written explanation why the review in person was not practicable (if the Secretary of the military department concerned elects to require such written explanations for purposes of the program).

(C) Limitation on number of service members managed by managers.—The maximum number of recovering service members whose cases may be assigned to a medical care case manager under the program at any one time shall be such number as the policy shall specify, except that the Secretary of the military department concerned may waive such limitation with respect to a given manager for not more than 120 days in the event of unforeseen circumstances (as specified in the policy).

(D) Training.—The policy shall specify standard training requirements and curricula for medical care case managers under the program, including a requirement for successful completion of the training program before a person may assume the duties of such a manager.

(E) Resources.—The policy shall include mechanisms to ensure that medical care case managers under the program have the resources necessary to expeditiously carry out the duties of such managers under the program.

TMA Version - March 2009

TMA Version - March 2009

(F) Supervision at armed forces medical facilities.—The policy shall specify requirements for the appropriate rank or grade, and appropriate occupation, for persons appointed to head and supervise the medical care case managers at each medical facility of the Armed Forces. Persons so appointed may be appointed from the Army Medical Corps, Army Medical Service Corps, Army Nurse Corps, Navy Medical Corps, Navy Medical Service Corps, Navy Nurse Corps, Air Force Medical Service, or other corps or civilian health care professional, as applicable, at the discretion of the Secretary of Defense.

(4) Non-medical care managers for recovering service members.—

(A) In general.—The policy shall provide for a uniform program among the military departments for the assignment to recovering service members of non-medical care managers having the duties specified in subparagraph (B).

(B) Duties.—The duties under the program of a non-medical care manager for a recovering service member shall include, at a minimum, the following:

(i) Communicating with the service member and with the service member's family or other individuals designated by the service member regarding non-medical matters that arise during the care, recovery, and transition of the service member.

(ii) Assisting with oversight of the service member's welfare and quality of life.

(iii) Assisting the service member in resolving problems involving financial, administrative, personnel, transitional, and other matters that arise during the care, recovery, and transition of the service member.

(C) Duration of duties.—The policy shall provide that a non-medical care manager shall perform duties under the program for a recovering service member until the service member is returned to active duty or retired or separated from the Armed Forces.

(D) Limitation on number of service members managed by managers.—The maximum number of recovering service members whose cases may be assigned to a non-medical care manager under the program at any one time shall be such number as the policy shall specify, except that the Secretary of the military department concerned may waive such limitation with respect to a given manager for not more than 120 days in the event of unforeseen circumstances (as specified in the policy).

(E) Training.—The policy shall specify standard training requirements and curricula among the military departments for non-medical care managers under the program, including a requirement for successful completion of the training program before a person may assume the duties of such a manager.

(F) Resources.—The policy shall include mechanisms to ensure that non-medical care managers under the program have the resources necessary to expeditiously carry out the duties of such managers under the program.

(G) Supervision at armed forces medical facilities.—The policy shall specify requirements for the appropriate rank and occupational speciality for persons appointed to head and supervise the non-medical care managers at each medical facility of the Armed Forces.

(5) Access of recovering service members to non-urgent health care from the department of defense or other providers under tricare.—

(A) In general.—The policy shall provide for appropriate minimum standards for access of recovering service members to non-urgent medical care and other health care services as follows:

(i) In medical facilities of the Department of Defense.

(ii) Through the TRICARE program.

(B) Maximum waiting times for certain care.—The standards for access under subparagraph (A) shall include such standards on maximum waiting times of

recovering service members as the policy shall specify for care that includes, but is not limited to, the following:

(i) Follow-up care.

(ii) Specialty care.

(iii) Diagnostic referrals and studies.

(iv) Surgery based on a physician's determination of medical necessity.

(C) Waiver by recovering service members.—The policy shall permit any recovering service member to waive a standard for access under this paragraph under such circumstances and conditions as the policy shall specify.

(6) Assignment of recovering service members to locations of care.—

(A) In general.—The policy shall provide for uniform guidelines among the military departments for the assignment of recovering service members to a location of care, including guidelines that provide for the assignment of recovering service members, when medically appropriate, to care and residential facilities closest to their duty station or home of record or the location of their designated care giver at the earliest possible time.

(B) Reassignment from deficient facilities.—The policy shall provide for uniform guidelines and procedures among the military departments for the reassignment of recovering service members from a medical or medical-related support facility determined by the Secretary of Defense to violate the standards required by section 1648 to another appropriate medical or medical-related support facility until the correction of violations of such standards at the medical or medical-related support facility from which such service members are reassigned.

(7) Transportation and subsistence for recovering service members.—The policy shall provide for uniform standards among the military departments on the availability of appropriate transportation and subsistence for recovering service members to facilitate their obtaining needed medical care and services.

(8) Work and duty assignments for recovering service members.—The policy shall provide for uniform criteria among the military departments for the assignment of recovering service members to work and duty assignments that are compatible with their medical conditions.

(9) Access of recovering service members to educational and vocational training and rehabilitation.—The policy shall provide for uniform standards among the military departments on the provision of educational and vocational training and rehabilitation opportunities for recovering service members at the earliest possible point in their recovery.

(10) Tracking of recovering service members.—The policy shall provide for uniform procedures among the military departments on tracking recovering service members to facilitate—

(A) locating each recovering service member; and

(B) tracking medical care appointments of recovering service members to ensure timeliness and compliance of recovering service members with appointments, and other physical and evaluation timelines, and to provide any other information needed to conduct oversight of the care, management, and transition of recovering service members.

(11) Referrals of recovering service members to other care and services providers.—The policy shall provide for uniform policies, procedures, and criteria among the military departments on the referral of recovering service members to the Department of Veterans Affairs and other private and public entities (including universities and rehabilitation hospitals, centers, and clinics) in order to secure the most appropriate care for recovering

TMA Version - March 2009

TMA Version - March 2009

service members, which policies, procedures, and criteria shall take into account, but not be limited to, the medical needs of recovering service members and the geographic location of available necessary recovery care services.

"(f) Services for Families of Recovering Service Members.—The policy required by subsection (a) shall provide for improvements as follows with respect to services for families of recovering service members:

(1) Support for family members of recovering service members.—The policy shall provide for uniform guidelines among the military departments on the provision by the military departments of support for family members of recovering service members who are not otherwise eligible for care under section 1672 in caring for such service members during their recovery.

(2) Advice and training for family members of recovering service members.—The policy shall provide for uniform requirements and standards among the military departments on the provision by the military departments of advice and training, as appropriate, to family members of recovering service members with respect to care for such service members during their recovery.

(3) Measurement of satisfaction of family members of recovering service members with quality of health care services.—The policy shall provide for uniform procedures among the military departments on the measurement of the satisfaction of family members of recovering service members with the quality of health care services provided to such service members during their recovery.

(4) Job placement services for family members of recovering service members.—The policy shall provide for procedures for application by eligible family members during a one-year period for job placement services otherwise offered by the Department of Defense.

"(g) Outreach to Recovering Service Members and Their Families on Comprehensive Policy.—The policy required by subsection (a) shall include procedures and mechanisms to ensure that recovering service members and their families are fully informed of the policies required by this section, including policies on medical care for recovering service members, on the management and transition of recovering service members, and on the responsibilities of recovering service members and their family members throughout the continuum of care and services for recovering service members under this section.

"(h) Applicability of Comprehensive Policy to Recovering Service Members on Temporary Disability Retired List.—Appropriate elements of the policy required by this section shall apply to recovering service members whose names are placed on the temporary disability retired list in such manner, and subject to such terms and conditions, as the Secretary of Defense shall prescribe in regulations for purposes of this subsection.

"SEC. 1612. MEDICAL EVALUATIONS AND PHYSICAL DISABILITY EVALUATIONS OF RECOVERING SERVICE MEMBERS.

"(a) Medical Evaluations of Recovering Service Members.—

(1) In general.—Not later than July 1, 2008, the Secretary of Defense shall develop a policy on improvements to the processes, procedures, and standards for the conduct by the military departments of medical evaluations of recovering service members.

(2) Elements.—The policy on improvements to processes, procedures, and standards required under this subsection shall include and address the following:

(A) Processes for medical evaluations of recovering service members that—

(i) apply uniformly throughout the military departments; and

(ii) apply uniformly with respect to recovering service members who are members of the regular components of the Armed Forces and recovering service members who are members of the National Guard and Reserve.

(B) Standard criteria and definitions for determining the achievement for recovering service members of the maximum medical benefit from treatment and rehabilitation.
(C) Standard timelines for each of the following:
(i) Determinations of fitness for duty of recovering service members.
(ii) Specialty care consultations for recovering service members.
(iii) Preparation of medical documents for recovering service members.
(iv) Appeals by recovering service members of medical evaluation determinations, including determinations of fitness for duty.
(D) Procedures for ensuring that—
(i) upon request of a recovering service member being considered by a medical evaluation board, a physician or other appropriate health care professional who is independent of the medical evaluation board is assigned to the service member; and
(ii) the physician or other health care professional assigned to a recovering service member under clause (i)—
(I) serves as an independent source for review of the findings and recommendations of the medical evaluation board;
(II) provides the service member with advice and counsel regarding the findings and recommendations of the medical evaluation board; and
(III) advises the service member on whether the findings of the medical evaluation board adequately reflect the complete spectrum of injuries and illness of the service member.
(E) Standards for qualifications and training of medical evaluation board personnel, including physicians, case workers, and physical disability evaluation board liaison officers, in conducting medical evaluations of recovering service members.
(F) Standards for the maximum number of medical evaluation cases of recovering service members that are pending before a medical evaluation board at any one time, and requirements for the establishment of additional medical evaluation boards in the event such number is exceeded.
(G) Standards for information for recovering service members, and their families, on the medical evaluation board process and the rights and responsibilities of recovering service members under that process, including a standard handbook on such information (which handbook shall also be available electronically).
"(b) Physical Disability Evaluations of Recovering Service Members.—
(1) In general.—Not later than July 1, 2008, the Secretary of Defense and the Secretary of Veterans Affairs shall develop a policy on improvements to the processes, procedures, and standards for the conduct of physical disability evaluations of recovering service members by the military departments and by the Department of Veterans Affairs.
(2) Elements.—The policy on improvements to processes, procedures, and standards required under this subsection shall include and address the following:
(A) A clearly-defined process of the Department of Defense and the Department of Veterans Affairs for disability determinations of recovering service members.
(B) To the extent feasible, procedures to eliminate unacceptable discrepancies and improve consistency among disability ratings assigned by the military departments and the Department of Veterans Affairs, particularly in the disability evaluation of recovering service members, which procedures shall be subject to the following requirements and limitations:
(i) Such procedures shall apply uniformly with respect to recovering service members who are members of the regular components of the Armed Forces and recovering service members who are members of the National Guard and Reserve.

TMA Version - March 2009

TMA Version - March 2009

(ii) Under such procedures, each Secretary of a military department shall, to the extent feasible, utilize the standard schedule for rating disabilities in use by the Department of Veterans Affairs, including any applicable interpretation of such schedule by the United States Court of Appeals for Veterans Claims, in making any determination of disability of a recovering service member, except as otherwise authorized by section 1216a of title 10, United States Code (as added by section 1642 of this Act).

(C) Uniform timelines among the military departments for appeals of determinations of disability of recovering service members, including timelines for presentation, consideration, and disposition of appeals.

(D) Uniform standards among the military departments for qualifications and training of physical disability evaluation board personnel, including physical evaluation board liaison personnel, in conducting physical disability evaluations of recovering service members.

(E) Uniform standards among the military departments for the maximum number of physical disability evaluation cases of recovering service members that are pending before a physical disability evaluation board at any one time, and requirements for the establishment of additional physical disability evaluation boards in the event such number is exceeded.

(F) Uniform standards and procedures among the military departments for the provision of legal counsel to recovering service members while undergoing evaluation by a physical disability evaluation board.

(G) Uniform standards among the military departments on the roles and responsibilities of non-medical care managers under section 1611(e)(4) and judge advocates assigned to recovering service members undergoing evaluation by a physical disability board, and uniform standards on the maximum number of cases involving such service members that are to be assigned to judge advocates at any one time.

"(c) Assessment of Consolidation of Department of Defense and Department of Veterans Affairs Disability Evaluation Systems.—

(1) In general.—The Secretary of Defense and the Secretary of Veterans Affairs shall jointly submit to the appropriate committees of Congress a report on the feasability [sic] and advisability of consolidating the disability evaluation systems of the military departments and the disability evaluation system of the Department of Veterans Affairs into a single disability evaluation system. The report shall be submitted together with the report required by section 1611(a).

(2) Elements.—The report required by paragraph (1) shall include the following:

(A) An assessment of the feasability [sic] and advisability of consolidating the disability evaluation systems described in paragraph (1) as specified in that paragraph.

(B) If the consolidation of the systems is considered feasible and advisable—

(i) recommendations for various options for consolidating the systems as specified in paragraph (1); and

(ii) recommendations for mechanisms to evaluate and assess any progress made in consolidating the systems as specified in that paragraph.

"SEC. 1613. RETURN OF RECOVERING SERVICE MEMBERS TO ACTIVE DUTY IN THE ARMED FORCES.
"The Secretary of Defense shall establish standards for determinations by the military departments on the return of recovering service members to active duty in the Armed Forces.

"SEC. 1614. TRANSITION OF RECOVERING SERVICE MEMBERS FROM CARE AND TREATMENT THROUGH THE DEPARTMENT OF DEFENSE TO CARE, TREATMENT, AND REHABILITATION THROUGH THE DEPARTMENT OF VETERANS AFFAIRS.

"(a) In General.—Not later than July 1, 2008, the Secretary of Defense and the Secretary of Veterans Affairs shall jointly develop and implement processes, procedures, and standards for the transition of recovering service members from care and treatment through the Department of Defense to care, treatment, and rehabilitation through the Department of Veterans Affairs.

"(b) Elements.—The processes, procedures, and standards required under this section shall include the following:

(1) Uniform, patient-focused procedures to ensure that the transition described in subsection (a) occurs without gaps in medical care and in the quality of medical care, benefits, and services.

(2) Procedures for the identification and tracking of recovering service members during the transition, and for the coordination of care and treatment of recovering service members during the transition, including a system of cooperative case management of recovering service members by the Department of Defense and the Department of Veterans Affairs during the transition.

(3) Procedures for the notification of Department of Veterans Affairs liaison personnel of the commencement by recovering service members of the medical evaluation process and the physical disability evaluation process.

(4) Procedures and timelines for the enrollment of recovering service members in applicable enrollment or application systems of the Department of Veterans Affairs with respect to health care, disability, education, vocational rehabilitation, or other benefits.

(5) Procedures to ensure the access of recovering service members during the transition to vocational, educational, and rehabilitation benefits available through the Department of Veterans Affairs.

(6) Standards for the optimal location of Department of Defense and Department of Veterans Affairs liaison and case management personnel at military medical treatment facilities, medical centers, and other medical facilities of the Department of Defense.

(7) Standards and procedures for integrated medical care and management of recovering service members during the transition, including procedures for the assignment of medical personnel of the Department of Veterans Affairs to Department of Defense facilities to participate in the needs assessments of recovering service members before, during, and after their separation from military service.

(8) Standards for the preparation of detailed plans for the transition of recovering service members from care and treatment by the Department of Defense to care, treatment, and rehabilitation by the Department of Veterans Affairs, which plans shall—

(A) be based on standardized elements with respect to care and treatment requirements and other applicable requirements; and

(B) take into account the comprehensive recovery plan for the recovering service member concerned as developed under section 1611(e)(1).

(9) Procedures to ensure that each recovering service member who is being retired or separated under chapter 61 of title 10, United States Code, receives a written transition plan, prior to the time of retirement or separation, that—

(A) specifies the recommended schedule and milestones for the transition of the service member from military service;

(B) provides for a coordinated transition of the service member from the Department of Defense disability evaluation system to the Department of Veterans Affairs disability system; and

TMA Version - March 2009

TMA Version - March 2009

(C) includes information and guidance designed to assist the service member in understanding and meeting the schedule and milestones specified under subparagraph (A) for the service member's transition.

(10) Procedures for the transmittal from the Department of Defense to the Department of Veterans Affairs of records and any other required information on each recovering service member described in paragraph (9), which procedures shall provide for the transmission from the Department of Defense to the Department of Veterans Affairs of records and information on the service member as follows:

(A) The address and contact information of the service member.

(B) The DD-214 discharge form of the service member, which shall be transmitted under such procedures electronically.

(C) A copy of the military service record of the service member, including medical records and any results of a physical evaluation board.

(D) Information on whether the service member is entitled to transitional health care, a conversion health policy, or other health benefits through the Department of Defense under section 1145 of title 10, United States Code.

(E) A copy of any request of the service member for assistance in enrolling in, or completed applications for enrollment in, the health care system of the Department of Veterans Affairs for health care benefits for which the service member may be eligible under laws administered by the Secretary of Veterans Affairs.

(F) A copy of any request by the service member for assistance in applying for, or completed applications for, compensation and vocational rehabilitation benefits to which the service member may be entitled under laws administered by the Secretary of Veterans Affairs.

(11) A process to ensure that, before transmittal of medical records of a recovering service member to the Department of Veterans Affairs, the Secretary of Defense ensures that the service member (or an individual legally recognized to make medical decisions on behalf of the service member) authorizes the transfer of the medical records of the service member from the Department of Defense to the Department of Veterans Affairs pursuant to the Health Insurance Portability and Accountability Act of 1996 [Pub. L. 104-191, see Tables for classification].

(12) Procedures to ensure that, with the consent of the recovering service member concerned, the address and contact information of the service member is transmitted to the department or agency for veterans affairs of the State in which the service member intends to reside after the retirement or separation of the service member from the Armed Forces.

(13) Procedures to ensure that, before the transmittal of records and other information with respect to a recovering service member under this section, a meeting regarding the transmittal of such records and other information occurs among the service member, appropriate family members of the service member, representatives of the Secretary of the military department concerned, and representatives of the Secretary of Veterans Affairs, with at least 30 days advance notice of the meeting being given to the service member unless the service member waives the advance notice requirement in order to accelerate transmission of the service member's records and other information to the Department of Veterans Affairs.

(14) Procedures to ensure that the Secretary of Veterans Affairs gives appropriate consideration to a written statement submitted to the Secretary by a recovering service member regarding the transition.

(15) Procedures to provide access for the Department of Veterans Affairs to the military health records of recovering service members who are receiving care and treatment, or are anticipating receipt of care and treatment, in Department of Veterans Affairs health care facilities, which procedures shall be consistent with the procedures and requirements in paragraphs (11) and (13).
(16) A process for the utilization of a joint separation and evaluation physical examination that meets the requirements of both the Department of Defense and the Department of Veterans Affairs in connection with the medical separation or retirement of a recovering service member from military service and for use by the Department of Veterans Affairs in disability evaluations.
(17) Procedures for surveys and other mechanisms to measure patient and family satisfaction with the provision by the Department of Defense and the Department of Veterans Affairs of care and services for recovering service members, and to facilitate appropriate oversight by supervisory personnel of the provision of such care and services.
(18) Procedures to ensure the participation of recovering service members who are members of the National Guard or Reserve in the Benefits Delivery at Discharge Program, including procedures to ensure that, to the maximum extent feasible, services under the Benefits Delivery at Discharge Program are provided to recovering service members at—
(A) appropriate military installations;
(B) appropriate armories and military family support centers of the National Guard;
(C) appropriate military medical care facilities at which members of the Armed Forces are separated or discharged from the Armed Forces; and
(D) in the case of a member on the temporary disability retired list under section 1202 or 1205 of title 10, United States Code, who is being retired under another provision of such title or is being discharged, at a location reasonably convenient to the member.

"SEC. 1616. ESTABLISHMENT OF A WOUNDED WARRIOR RESOURCE CENTER.
"(a) Establishment.—The Secretary of Defense shall establish a wounded warrior resource center (in this section referred to as the 'center') to provide wounded warriors, their families, and their primary caregivers with a single point of contact for assistance with reporting deficiencies in covered military facilities, obtaining health care services, receiving benefits information, receiving legal assistance referral information (where appropriate), receiving other appropriate referral information, and any other difficulties encountered while supporting wounded warriors. The Secretary shall widely disseminate information regarding the existence and availability of the center, including contact information, to members of the Armed Forces and their dependents. In carrying out this subsection, the Secretary may use existing infrastructure and organizations but shall ensure that the center has the ability to separately keep track of calls from wounded warriors.
"(b) Access.—The center shall provide multiple methods of access, including at a minimum an Internet website and a toll-free telephone number (commonly referred to as a 'hot line') at which personnel are accessible at all times to receive reports of deficiencies or provide information about covered military facilities, health care services, or military benefits.
"(c) Confidentiality.—
(1) Notification.—Individuals who seek to provide information through the center under subsection (a) shall be notified, immediately before they provide such information, of their option to elect, at their discretion, to have their identity remain confidential.
(2) Prohibition on further disclosure.—In the case of information provided through use of the toll-free telephone number by an individual who elects to maintain the confidentiality of his or her identity, any individual who, by necessity, has had access to such information

TMA Version - March 2009

TMA Version - March 2009

for purposes of investigating or responding to the call as required under subsection (d) may not disclose the identity of the individual who provided the information.

"(d) Functions.—The center shall perform the following functions:

(1) Call tracking.—The center shall be responsible for documenting receipt of a call, referring the call to the appropriate office within a military department for answer or investigation, and tracking the formulation and notification of the response to the call.

(2) Investigation and response.—The center shall be responsible for ensuring that, not later than 96 hours after a call—

(A) if a report of deficiencies is received in a call—

(i) any deficiencies referred to in the call are investigated;

(ii) if substantiated, a plan of action for remediation of the deficiencies is developed and implemented; and

(iii) if requested, the individual who made the report is notified of the current status of the report; or

(B) if a request for information is received in a call—

(i) the information requested by the caller is provided by the center;

(ii) all requests for information from the call are referred to the appropriate office or offices of a military department for response; and

(iii) the individual who made the report is notified, at a minimum, of the current status of the query.

(3) Final notification.—The center shall be responsible for ensuring that, if requested, the caller is notified when the deficiency has been corrected or when the request for information has been fulfilled to the maximum extent practicable, as determined by the Secretary.

"(e) Definitions.—In this section:

(1) Covered military facility.—The term 'covered military facility' has the meaning provided in section 1648(b) of this Act.

(2) Call.—The term 'call' means any query or report that is received by the center by means of the toll-free telephone number or other source.

"(f) Effective Dates.—

(1) Toll-free telephone number.—The toll-free telephone number required to be established by subsection (a), shall be fully operational not later than April 1, 2008.

(2) Internet website.—The Internet website required to be established by subsection (a), shall be fully operational not later than July 1, 2008. [As amended Pub. L. 110-417, [div. A], title VII, Sec. 724, Oct. 14, 2008, 122 Stat. 4509.]

"SEC. 1618. COMPREHENSIVE PLAN ON PREVENTION, DIAGNOSIS, MITIGATION, TREATMENT, AND REHABILITATION OF, AND RESEARCH ON, TRAUMATIC BRAIN INJURY, POST-TRAUMATIC STRESS DISORDER, AND OTHER MENTAL HEALTH CONDITIONS IN MEMBERS OF THE ARMED FORCES.

"(a) Comprehensive Statement of Policy.—The Secretary of Defense and the Secretary of Veterans Affairs shall direct joint planning among the Department of Defense, the military departments, and the Department of Veterans Affairs for the prevention, diagnosis, mitigation, treatment, and rehabilitation of, and research on, traumatic brain injury, post-traumatic stress disorder, and other mental health conditions in members of the Armed Forces, including planning for the seamless transition of such members from care through the Department of Defense to care through the Department of Veterans Affairs.

"(b) Comprehensive Plan Required.—Not later than 180 days after the date of the enactment of this Act [Jan. 28, 2008], the Secretary of Defense shall, in consultation with the Secretary of Veterans Affairs, submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a comprehensive

plan for programs and activities of the Department of Defense to prevent, diagnose, mitigate, treat, research, and otherwise respond to traumatic brain injury, post-traumatic stress disorder, and other mental health conditions in members of the Armed Forces, including—

(1) an assessment of the current capabilities of the Department for the prevention, diagnosis, mitigation, treatment, and rehabilitation of, and research on, traumatic brain injury, post-traumatic stress disorder, and other mental health conditions in members of the Armed Forces;

(2) the identification of gaps in current capabilities of the Department for the prevention, diagnosis, mitigation, treatment, and rehabilitation of, and research on, traumatic brain injury, post-traumatic stress disorder, and other mental health conditions in members of the Armed Forces; and

(3) the identification of the resources required for the Department in fiscal years 2009 through 2013 to address the gaps in capabilities identified under paragraph (2).

"(c) Program Required.—One of the programs contained in the comprehensive plan submitted under subsection (b) shall be a Department of Defense program, developed in collaboration with the Department of Veterans Affairs, under which each member of the Armed Forces who incurs a traumatic brain injury or post-traumatic stress disorder during service in the Armed Forces—

(1) is enrolled in the program; and

(2) receives treatment and rehabilitation meeting a standard of care such that each individual who qualifies for care under the program shall—

(A) be provided the highest quality, evidence-based care in facilities that most appropriately meet the specific needs of the individual; and

(B) be rehabilitated to the fullest extent possible using up-to-date evidence-based medical technology, and physical and medical rehabilitation practices and expertise.

"(d) Provision of Information Required.—The comprehensive plan submitted under subsection (b) shall require the provision of information by the Secretary of Defense to members of the Armed Forces with traumatic brain injury, post-traumatic stress disorder, or other mental health conditions and their families about their options with respect to the following:

(1) The receipt of medical and mental health care from the Department of Defense and the Department of Veterans Affairs.

(2) Additional options available to such members for treatment and rehabilitation of traumatic brain injury, post-traumatic stress disorder, and other mental health conditions.

(3) The options available, including obtaining a second opinion, to such members for a referral to an authorized provider under chapter 55 of title 10, United States Code, as determined under regulations prescribed by the Secretary of Defense.

"(e) Additional Elements of Plan.—The comprehensive plan submitted under subsection (b) shall include comprehensive proposals of the Department on the following:

(1) Lead agent.—The designation by the Secretary of Defense of a lead agent or executive agent for the Department to coordinate development and implementation of the plan.

(2) Detection and treatment.—The improvement of methods and mechanisms for the detection and treatment of traumatic brain injury, post-traumatic stress disorder, and other mental health conditions in members of the Armed Forces in the field.

(3) Reduction of ptsd.—The development of a plan for reducing post traumatic-stress disorder, incorporating evidence- based preventive and early-intervention measures, practices, or procedures that reduce the likelihood that personnel in combat will develop post-traumatic stress disorder or other stress- related conditions (including substance abuse conditions) into—

(A) basic and pre-deployment training for enlisted members of the Armed Forces, noncommissioned officers, and officers;

TMA Version - March 2009

TMA Version - March 2009

(B) combat theater operations; and
(C) post-deployment service.
(4) Research.—Requirements for research on traumatic brain injury, post-traumatic stress disorder, and other mental health conditions including (in particular) research on pharmacological and other approaches to treatment for traumatic brain injury, post-traumatic stress disorder, or other mental health conditions, as applicable, and the allocation of priorities among such research.
(5) Diagnostic criteria.—The development, adoption, and deployment of joint Department of Defense-Department of Veterans Affairs evidence-based diagnostic criteria for the detection and evaluation of the range of traumatic brain injury, post-traumatic stress disorder, and other mental health conditions in members of the Armed Forces, which criteria shall be employed uniformly across the military departments in all applicable circumstances, including provision of clinical care and assessment of future deployability of members of the Armed Forces.
(6) Assessment.—The development and deployment of evidence- based means of assessing traumatic brain injury, post-traumatic stress disorder, and other mental health conditions in members of the Armed Forces, including a system of pre-deployment and post- deployment screenings of cognitive ability in members for the detection of cognitive impairment.
(7) Managing and monitoring.—The development and deployment of effective means of managing and monitoring members of the Armed Forces with traumatic brain injury, post-traumatic stress disorder, or other mental health conditions in the receipt of care for traumatic brain injury, post-traumatic stress disorder, or other mental health conditions, as applicable, including the monitoring and assessment of treatment and outcomes.
(8) Education and awareness.—The development and deployment of an education and awareness training initiative designed to reduce the negative stigma associated with traumatic brain injury, post-traumatic stress disorder, and other mental health conditions, and mental health treatment.
(9) Education and outreach.—The provision of education and outreach to families of members of the Armed Forces with traumatic brain injury, post-traumatic stress disorder, or other mental health conditions on a range of matters relating to traumatic brain injury, post-traumatic stress disorder, or other mental health conditions, as applicable, including detection, mitigation, and treatment.
(10) Recording of blasts.—A requirement that exposure to a blast or blasts be recorded in the records of members of the Armed Forces.
(11) Guidelines for blast injuries.—The development of clinical practice guidelines for the diagnosis and treatment of blast injuries in members of the Armed Forces, including, but not limited to, traumatic brain injury.
(12) Gender- and ethnic group-specific services and treatment.—The development of requirements, as appropriate, for gender- and ethnic group-specific medical care services and treatment for members of the Armed Forces who experience mental health problems and conditions, including post-traumatic stress disorder, with specific regard to the availability of, access to, and research and development requirements of such needs.
"(f) Coordination in Development.—The comprehensive plan submitted under subsection (b) shall be developed in coordination with the Secretary of the Army (who was designated by the Secretary of Defense as executive agent for the prevention, mitigation, and treatment of blast injuries under section 256 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109-163; 119 Stat. 3181; 10 U.S.C. 1071 note)).

"SEC. 1621. CENTER OF EXCELLENCE IN THE PREVENTION, DIAGNOSIS, MITIGATION, TREATMENT, AND REHABILITATION OF TRAUMATIC BRAIN INJURY.

"(a) In General.—The Secretary of Defense shall establish within the Department of Defense a center of excellence in the prevention, diagnosis, mitigation, treatment, and rehabilitation of traumatic brain injury, including mild, moderate, and severe traumatic brain injury, to carry out the responsibilities specified in subsection (c).

"(b) Partnerships.—The Secretary shall ensure that the Center collaborates to the maximum extent practicable with the Department of Veterans Affairs, institutions of higher education, and other appropriate public and private entities (including international entities) to carry out the responsibilities specified in subsection (c).

"(c) Responsibilities.—The Center shall have responsibilities as follows:

(1) To implement the comprehensive plan and strategy for the Department of Defense, required by section 1618 of this Act, for the prevention, diagnosis, mitigation, treatment, and rehabilitation of traumatic brain injury, including research on gender and ethnic group-specific health needs related to traumatic brain injury.

(2) To provide for the development, testing, and dissemination within the Department of best practices for the treatment of traumatic brain injury.

(3) To provide guidance for the mental health system of the Department in determining the mental health and neurological health personnel required to provide quality mental health care for members of the Armed Forces with traumatic brain injury.

(4) To establish, implement, and oversee a comprehensive program to train mental health and neurological health professionals of the Department in the treatment of traumatic brain injury.

(5) To facilitate advancements in the study of the short-term and long-term psychological effects of traumatic brain injury.

(6) To disseminate within the military medical treatment facilities of the Department best practices for training mental health professionals, including neurological health professionals, with respect to traumatic brain injury.

(7) To conduct basic science and translational research on traumatic brain injury for the purposes of understanding the etiology of traumatic brain injury and developing preventive interventions and new treatments.

(8) To develop programs and outreach strategies for families of members of the Armed Forces with traumatic brain injury in order to mitigate the negative impacts of traumatic brain injury on such family members and to support the recovery of such members from traumatic brain injury.

(9) To conduct research on the mental health needs of families of members of the Armed Forces with traumatic brain injury and develop protocols to address any needs identified through such research.

(10) To conduct longitudinal studies (using imaging technology and other proven research methods) on members of the Armed Forces with traumatic brain injury to identify early signs of Alzheimer's disease, Parkinson's disease, or other manifestations of neurodegeneration, as well as epilepsy, in such members, in coordination with the studies authorized by section 721 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109-364; 120 Stat. 2294) [10 U.S.C. 1074 note] and other studies of the Department of Defense and the Department of Veterans Affairs that address the connection between exposure to combat and the development of Alzheimer's disease, Parkinson's disease, and other neurodegenerative disorders, as well as epilepsy.

TMA Version - March 2009

TMA Version - March 2009

(11) To develop and oversee a long-term plan to increase the number of mental health and neurological health professionals within the Department in order to facilitate the meeting by the Department of the needs of members of the Armed Forces with traumatic brain injury until their transition to care and treatment from the Department of Veterans Affairs.
(12) To develop a program on comprehensive pain management, including management of acute and chronic pain, to utilize current and develop new treatments for pain, and to identify and disseminate best practices on pain management related to traumatic brain injury.
(13) Such other responsibilities as the Secretary shall specify.

"SEC. 1622. CENTER OF EXCELLENCE IN PREVENTION, DIAGNOSIS, MITIGATION, TREATMENT, AND REHABILITATION OF POST-TRAUMATIC STRESS DISORDER AND OTHER MENTAL HEALTH CONDITIONS.

"(a) In General.—The Secretary of Defense shall establish within the Department of Defense a center of excellence in the prevention, diagnosis, mitigation, treatment, and rehabilitation of post-traumatic stress disorder (PTSD) and other mental health conditions, including mild, moderate, and severe post-traumatic stress disorder and other mental health conditions, to carry out the responsibilities specified in subsection (c).
"(b) Partnerships.—The Secretary shall ensure that the center collaborates to the maximum extent practicable with the National Center on Post-Traumatic Stress Disorder of the Department of Veterans Affairs, institutions of higher education, and other appropriate public and private entities (including international entities) to carry out the responsibilities specified in subsection (c).
"(c) Responsibilities.—The center shall have responsibilities as follows:
(1) To implement the comprehensive plan and strategy for the Department of Defense, required by section 1618 of this Act, for the prevention, diagnosis, mitigation, treatment, and rehabilitation of post-traumatic stress disorder and other mental health conditions, including research on gender- and ethnic group- specific health needs related to post-traumatic stress disorder and other mental health conditions.
(2) To provide for the development, testing, and dissemination within the Department of best practices for the treatment of post- traumatic stress disorder.
(3) To provide guidance for the mental health system of the Department in determining the mental health and neurological health personnel required to provide quality mental health care for members of the Armed Forces with post-traumatic stress disorder and other mental health conditions.
(4) To establish, implement, and oversee a comprehensive program to train mental health and neurological health professionals of the Department in the treatment of post-traumatic stress disorder and other mental health conditions.
(5) To facilitate advancements in the study of the short-term and long-term psychological effects of post-traumatic stress disorder and other mental health conditions.
(6) To disseminate within the military medical treatment facilities of the Department best practices for training mental health professionals, including neurological health professionals, with respect to post-traumatic stress disorder and other mental health conditions.
(7) To conduct basic science and translational research on post-traumatic stress disorder for the purposes of understanding the etiology of post-traumatic stress disorder and developing preventive interventions and new treatments.
(8) To develop programs and outreach strategies for families of members of the Armed Forces with post-traumatic stress disorder and other mental health conditions in order to mitigate the negative impacts of post-traumatic stress disorder and other mental health

conditions on such family members and to support the recovery of such members from post-traumatic stress disorder and other mental health conditions.

(9) To conduct research on the mental health needs of families of members of the Armed Forces with post-traumatic stress disorder and other mental health conditions and develop protocols to address any needs identified through such research.

(10) To develop and oversee a long-term plan to increase the number of mental health and neurological health professionals within the Department in order to facilitate the meeting by the Department of the needs of members of the Armed Forces with post- traumatic stress disorder and other mental health conditions until their transition to care and treatment from the Department of Veterans Affairs.

"SEC. 1623. CENTER OF EXCELLENCE IN PREVENTION, DIAGNOSIS, MITIGATION, TREATMENT, AND REHABILITATION OF MILITARY EYE INJURIES.

"(a) In General.—The Secretary of Defense shall establish within the Department of Defense a center of excellence in the prevention, diagnosis, mitigation, treatment, and rehabilitation of military eye injuries to carry out the responsibilities specified in subsection (c).

"(b) Partnerships.—The Secretary shall ensure that the center collaborates to the maximum extent practicable with the Secretary of Veterans Affairs, institutions of higher education, and other appropriate public and private entities (including international entities) to carry out the responsibilities specified in subsection (c).

"(c) Responsibilities.—

(1) In general.—The center shall—

(A) implement a comprehensive plan and strategy for the Department of Defense, as developed by the Secretary of Defense, for a registry of information for the tracking of the diagnosis, surgical intervention or other operative procedure, other treatment, and follow up for each case of significant eye injury incurred by a member of the Armed Forces while serving on active duty;

(B) ensure the electronic exchange with the Secretary of Veterans Affairs of information obtained through tracking under subparagraph (A); and

(C) enable the Secretary of Veterans Affairs to access the registry and add information pertaining to additional treatments or surgical procedures and eventual visual outcomes for veterans who were entered into the registry and subsequently received treatment through the Veterans Health Administration.

(2) Designation of registry.—The registry under this subsection shall be known as the 'Military Eye Injury Registry' (hereinafter referred to as the 'Registry').

(3) Consultation in development.—The center shall develop the Registry in consultation with the ophthalmological specialist personnel and optometric specialist personnel of the Department of Defense and the ophthalmological specialist personnel and optometric specialist personnel of the Department of Veterans Affairs. The mechanisms and procedures of the Registry shall reflect applicable expert research on military and other eye injuries.

(4) Mechanisms.—The mechanisms of the Registry for tracking under paragraph (1)(A) shall ensure that each military medical treatment facility or other medical facility shall submit to the center for inclusion in the Registry information on the diagnosis, surgical intervention or other operative procedure, other treatment, and follow up for each case of eye injury described in that paragraph as follows (to the extent applicable):

(A) Not later than 30 days after surgery or other operative intervention, including a surgery or other operative intervention carried out as a result of a follow-up examination.

TMA Version - March 2009

TMA Version - March 2009

(B) Not later than 180 days after the significant eye injury is reported or recorded in the medical record.

(5) Coordination of care and benefits.—

(A) The center shall provide notice to the Blind Rehabilitation Service of the Department of Veterans Affairs and to the eye care services of the Veterans Health Administration on each member of the Armed Forces described in subparagraph (B) for purposes of ensuring the coordination of the provision of ongoing eye care and visual rehabilitation benefits and services by the Department of Veterans Affairs after the separation or release of such member from the Armed Forces.

(B) A member of the Armed Forces described in this subparagraph is a member of the Armed Forces as follows:

(i) A member with a significant eye injury incurred while serving on active duty, including a member with visual dysfunction related to traumatic brain injury.

(ii) A member with an eye injury incurred while serving on active duty who has a visual acuity of 20/200 or less in the injured eye.

(iii) A member with an eye injury incurred while serving on active duty who has a loss of peripheral vision resulting in 20 degrees or less of visual field in the injured eye.

"(d) Utilization of Registry Information.—The Secretary of Defense and the Secretary of Veterans Affairs shall jointly ensure that information in the Registry is available to appropriate ophthalmological and optometric personnel of the Department of Defense and the Department of Veterans Affairs for purposes of encouraging and facilitating the conduct of research, and the development of best practices and clinical education, on eye injuries incurred by members of the Armed Forces.

"(e) Inclusion of Records of OIF/OEF Veterans.—The Secretary of Defense shall take appropriate actions to include in the Registry such records of members of the Armed Forces who incurred an eye injury while serving on active duty on or after September 11, 2001, but before the establishment of the Registry, as the Secretary considers appropriate for purposes of the Registry.

"(f) Traumatic Brain Injury Post Traumatic Visual Syndrome.—In carrying out the program at Walter Reed Army Medical Center, District of Columbia, on traumatic brain injury post traumatic visual syndrome, the Secretary of Defense and the Department of Veterans Affairs shall jointly provide for the conduct of a cooperative program for members of the Armed Forces and veterans with traumatic brain injury by military medical treatment facilities of the Department of Defense and medical centers of the Department of Veterans Affairs selected for purposes of this subsection for purposes of vision screening, diagnosis, rehabilitative management, and vision research, including research on prevention, on visual dysfunction related to traumatic brain injury. [As amended Pub. L. 110-417, [div. A], title VII, Sec. 722, Oct. 14, 2008, 122 Stat. 4508.]

"SEC. 1631. MEDICAL CARE AND OTHER BENEFITS FOR MEMBERS AND FORMER MEMBERS OF THE ARMED FORCES WITH SEVERE INJURIES OR ILLNESSES.

"(a) Medical and Dental Care for Former Members.—

(1) In general.—Effective as of the date of the enactment of this Act [Jan. 28, 2008] and subject to regulations prescribed by the Secretary of Defense, the Secretary may authorize that any former member of the Armed Forces with a serious injury or illness may receive the same medical and dental care as a member of the Armed Forces on active duty for medical and dental care not reasonably available to such former member in the Department of Veterans Affairs.

(2) Sunset.—The Secretary of Defense may not provide medical or dental care to a former member of the Armed Forces under this subsection after December 31, 2012, if the Secretary has not provided medical or dental care to the former member under this subsection before that date.

"(b) Rehabilitation and Vocational Benefits.—

(1) In general.—Effective as of the date of the enactment of this Act [Jan. 28, 2008], a member of the Armed Forces with a severe injury or illness is entitled to such benefits (including rehabilitation and vocational benefits, but not including compensation) from the Secretary of Veterans Affairs to facilitate the recovery and rehabilitation of such member as the Secretary otherwise provides to veterans of the Armed Forces receiving medical care in medical facilities of the Department of Veterans Affairs facilities in order to facilitate the recovery and rehabilitation of such members.

(2) Sunset.—The Secretary of Veterans Affairs may not provide benefits to a member of the Armed Forces under this subsection after December 31, 2012, if the Secretary has not provided benefits to the member under this subsection before that date.

"SEC. 1635. FULLY INTEROPERABLE ELECTRONIC PERSONAL HEALTH INFORMATION FOR THE DEPARTMENT OF DEFENSE AND DEPARTMENT OF VETERANS AFFAIRS.

"(a) In General.—The Secretary of Defense and the Secretary of Veterans Affairs shall jointly—

(1) develop and implement electronic health record systems or capabilities that allow for full interoperability of personal health care information between the Department of Defense and the Department of Veterans Affairs; and

(2) accelerate the exchange of health care information between the Department of Defense and the Department of Veterans Affairs in order to support the delivery of health care by both Departments.

"(b) Department of Defense-Department of Veterans Affairs Interagency Program Office.—

(1) In general.—There is hereby established an interagency program office of the Department of Defense and the Department of Veterans Affairs (in this section referred to as the 'Office') for the purposes described in paragraph (2).

(2) Purposes.—The purposes of the Office shall be as follows:

(A) To act as a single point of accountability for the Department of Defense and the Department of Veterans Affairs in the rapid development and implementation of electronic health record systems or capabilities that allow for full interoperability of personal health care information between the Department of Defense and the Department of Veterans Affairs.

(B) To accelerate the exchange of health care information between the Department of Defense and the Department of Veterans Affairs in order to support the delivery of health care by both Departments.

"(c) Leadership.—

(1) Director.—The Director of the Office shall be the head of the Office.

(2) Deputy director.—The Deputy Director of the Office shall be the deputy head of the Office and shall assist the Director in carrying out the duties of the Director.

(3) Appointments.—

(A) The Director shall be appointed by the Secretary of Defense, with the concurrence of the Secretary of Veterans Affairs, from among persons who are qualified to direct the development, acquisition, and integration of major information technology capabilities.

(B) The Deputy Director shall be appointed by the Secretary of Veterans Affairs, with the concurrence of the Secretary of Defense, from among employees of the Department of Defense and the Department of Veterans Affairs in the Senior Executive Service who are

TMA Version - March 2009

TMA Version - March 2009

qualified to direct the development, acquisition, and integration of major information technology capabilities.

(4) Additional guidance.—In addition to the direction, supervision, and control provided by the Secretary of Defense and the Secretary of Veterans Affairs, the Office shall also receive guidance from the Department of Veterans Affairs-Department of Defense Joint Executive Committee under section 320 of title 38, United States Code, in the discharge of the functions of the Office under this section.

(5) Testimony.—Upon request by any of the appropriate committees of Congress, the Director and the Deputy Director shall testify before such committee regarding the discharge of the functions of the Office under this section.

"(d) Function.—The function of the Office shall be to implement, by not later than September 30, 2009, electronic health record systems or capabilities that allow for full interoperability of personal health care information between the Department of Defense and the Department of Veterans Affairs, which health records shall comply with applicable interoperability standards, implementation specifications, and certification criteria (including for the reporting of quality measures) of the Federal Government.

"(e) Schedules and Benchmarks.—Not later than 30 days after the date of the enactment of this Act [Jan. 28, 2008], the Secretary of Defense and the Secretary of Veterans Affairs shall jointly establish a schedule and benchmarks for the discharge by the Office of its function under this section, including each of the following:

(1) A schedule for the establishment of the Office.

(2) A schedule and deadline for the establishment of the requirements for electronic health record systems or capabilities described in subsection (d), including coordination with the Office of the National Coordinator for Health Information Technology in the development of a nationwide interoperable health information technology infrastructure.

(3) A schedule and associated deadlines for any acquisition and testing required in the implementation of electronic health record systems or capabilities that allow for full interoperability of personal health care information between the Department of Defense and the Department of Veterans Affairs.

(4) A schedule and associated deadlines and requirements for the implementation of electronic health record systems or capabilities that allow for full interoperability of personal health care information between the Department of Defense and the Department of Veterans Affairs.

"(f) Pilot Projects.—

(1) Authority.—In order to assist the Office in the discharge of its function under this section, the Secretary of Defense and the Secretary of Veterans Affairs may, acting jointly, carry out one or more pilot projects to assess the feasibility and advisability of various technological approaches to the achievement of the electronic health record systems or capabilities described in subsection (d).

(2) Sharing of protected health information.—For purposes of each pilot project carried out under this subsection, the Secretary of Defense and the Secretary of Veterans Affairs shall, for purposes of the regulations promulgated under section 264(c) of the Health Insurance Portability and Accountability Act of 1996 [Pub. L. 104-191] (42 U.S.C. 1320d-2 note), ensure the effective sharing of protected health information between the health care system of the Department of Defense and the health care system of the Department of Veterans Affairs as needed to provide all health care services and other benefits allowed by law.

"(g) Staff and Other Resources.—

(1) In general.—The Secretary of Defense and the Secretary of Veterans Affairs shall assign to the Office such personnel and other resources of the Department of Defense and the

Department of Veterans Affairs as are required for the discharge of its function under this section.

(2) Additional services.—Subject to the approval of the Secretary of Defense and the Secretary of Veterans Affairs, the Director may utilize the services of private individuals and entities as consultants to the Office in the discharge of its function under this section. Amounts available to the Office shall be available for payment for such services.

"(h) Annual Reports.—

(1) In general.—Not later than January 1, 2009, and each year thereafter through 2014, the Director shall submit to the Secretary of Defense and the Secretary of Veterans Affairs, and to the appropriate committees of Congress, a report on the activities of the Office during the preceding calendar year. Each report shall include, for the year covered by such report, the following:

(A) A detailed description of the activities of the Office, including a detailed description of the amounts expended and the purposes for which expended.

(B) An assessment of the progress made by the Department of Defense and the Department of Veterans Affairs in the full implementation of electronic health record systems or capabilities described in subsection (d).

(C) A description and analysis of the level of interoperability and security of technologies for sharing healthcare information among the Department of Defense, the Department of Veterans Affairs, and their transaction partners.

(D) A description and analysis of the problems the Department of Defense and the Department of Veterans Affairs are having with, and the progress such departments are making toward, ensuring interoperable and secure healthcare information systems and electronic healthcare records.

(2) Availability to public.—The Secretary of Defense and the Secretary of Veterans Affairs shall make available to the public each report submitted under paragraph (1), including by posting such report on the Internet website of the Department of Defense and the Department of Veterans Affairs, respectively, that is available to the public.

"(i) Comptroller General Assessment of Implementation.—Not later than six months after the date of the enactment of this Act [Jan. 28, 2008] and every six months thereafter until the completion of the implementation of electronic health record systems or capabilities described in subsection (d), the Comptroller General of the United States shall submit to the appropriate committees of Congress a report setting forth the assessment of the Comptroller General of the progress of the Department of Defense and the Department of Veterans Affairs in implementing electronic health record systems or capabilities described in subsection (d).

"(j) Technology-Neutral Guidelines and Standards.—The Director, in consultation with industry and appropriate Federal agencies, shall develop, or shall adopt from industry, technology-neutral information technology infrastructure guidelines and standards for use by the Department of Defense and the Department of Veterans Affairs to enable those departments to effectively select and utilize information technologies to meet the requirements of this section. [As amended Pub. L. 110-417, [div. A], title II, Sec. 252, Oct. 14, 2008, 122 Stat. 4400.]

"SEC. 1644. AUTHORIZATION OF PILOT PROGRAMS TO IMPROVE THE DISABILITY EVALUATION SYSTEM FOR MEMBERS OF THE ARMED FORCES.

"(a) Pilot Programs.—

(1) Programs authorized.—For the purposes set forth in subsection (c), the Secretary of Defense may establish and conduct pilot programs with respect to the system of the Department of Defense for the evaluation of the disabilities of members of the Armed Forces who are being separated or retired from the Armed Forces for disability under

TMA Version - March 2009

TMA Version - March 2009

chapter 61 of title 10, United States Code (in this section referred to as the 'disability evaluation system').

(2) Types of pilot programs.—In carrying out this section, the Secretary of Defense may conduct one or more of the pilot programs described in paragraphs (1) through (3) of subsection (b) or such other pilot programs as the Secretary of Defense considers appropriate.

(3) Consultation.—In establishing and conducting any pilot program under this section, the Secretary of Defense shall consult with the Secretary of Veterans Affairs.

"(b) Scope of Pilot Programs.—

(1) Disability determinations by dod utilizing va assigned disability rating.—Under one of the pilot programs authorized by subsection (a), for purposes of making a determination of disability of a member of the Armed Forces under section 1201(b) of title 10, United States Code, for the retirement, separation, or placement of the member on the temporary disability retired list under chapter 61 of such title, upon a determination by the Secretary of the military department concerned that the member is unfit to perform the duties of the member's office, grade, rank, or rating because of a physical disability as described in section 1201(a) of such title—

(A) the Secretary of Veterans Affairs may—

(i) conduct an evaluation of the member for physical disability; and

(ii) assign the member a rating of disability in accordance with the schedule for rating disabilities utilized by the Secretary of Veterans Affairs based on all medical conditions (whether individually or collectively) that render the member unfit for duty; and

(B) the Secretary of the military department concerned may make the determination of disability regarding the member utilizing the rating of disability assigned under subparagraph (A)(ii).

(2) Disability determinations utilizing joint dod/va assigned disability rating.—Under one of the pilot programs authorized by subsection (a), in making a determination of disability of a member of the Armed Forces under section 1201(b) of title 10, United States Code, for the retirement, separation, or placement of the member on the temporary disability retired list under chapter 61 of such title, the Secretary of the military department concerned may, upon determining that the member is unfit to perform the duties of the member's office, grade, rank, or rating because of a physical disability as described in section 1201(a) of such title—

(A) provide for the joint evaluation of the member for disability by the Secretary of the military department concerned and the Secretary of Veterans Affairs, including the assignment of a rating of disability for the member in accordance with the schedule for rating disabilities utilized by the Secretary of Veterans Affairs based on all medical conditions (whether individually or collectively) that render the member unfit for duty; and

(B) make the determination of disability regarding the member utilizing the rating of disability assigned under subparagraph (A).

(3) Electronic clearing house.—Under one of the pilot programs authorized by subsection (a), the Secretary of Defense may establish and operate a single Internet website for the disability evaluation system of the Department of Defense that enables participating members of the Armed Forces to fully utilize such system through the Internet, with such Internet website to include the following:

(A) The availability of any forms required for the utilization of the disability evaluation system by members of the Armed Forces under the system.

(B) Secure mechanisms for the submission of such forms by members of the Armed Forces under the system, and for the tracking of the acceptance and review of any forms so submitted.

(C) Secure mechanisms for advising members of the Armed Forces under the system of any additional information, forms, or other items that are required for the acceptance and review of any forms so submitted.

(D) The continuous availability of assistance to members of the Armed Forces under the system (including assistance through the caseworkers assigned to such members of the Armed Forces) in submitting and tracking such forms, including assistance in obtaining information, forms, or other items described by subparagraph (C).

(E) Secure mechanisms to request and receive personnel files or other personnel records of members of the Armed Forces under the system that are required for submission under the disability evaluation system, including the capability to track requests for such files or records and to determine the status of such requests and of responses to such requests.

(4) Other pilot programs.—The pilot programs authorized by subsection (a) may also provide for the development, evaluation, and identification of such practices and procedures under the disability evaluation system as the Secretary considers appropriate for purposes set forth in subsection (c).

"(c) Purposes.—A pilot program established under subsection (a) may have one or more of the following purposes:

(1) To provide for the development, evaluation, and identification of revised and improved practices and procedures under the disability evaluation system in order to—

(A) reduce the processing time under the disability evaluation system of members of the Armed Forces who are likely to be retired or separated for disability, and who have not requested continuation on active duty, including, in particular, members who are severely wounded;

(B) identify and implement or seek the modification of statutory or administrative policies and requirements applicable to the disability evaluation system that—

(i) are unnecessary or contrary to applicable best practices of civilian employers and civilian healthcare systems; or

(ii) otherwise result in hardship, arbitrary, or inconsistent outcomes for members of the Armed Forces, or unwarranted inefficiencies and delays;

(C) eliminate material variations in policies, interpretations, and overall performance standards among the military departments under the disability evaluation system; and

(D) determine whether it enhances the capability of the Department of Veterans Affairs to receive and determine claims from members of the Armed Forces for compensation, pension, hospitalization, or other veterans benefits.

(2) In conjunction with the findings and recommendations of applicable Presidential and Department of Defense study groups, to provide for the eventual development of revised and improved practices and procedures for the disability evaluation system in order to achieve the objectives set forth in paragraph (1).

"(d) Utilization of Results in Updates of Comprehensive Policy on Care, Management, and Transition of Recovering Service Members.—The Secretary of Defense and the Secretary of Veterans Affairs, acting jointly, may incorporate responses to any findings and recommendations arising under the pilot programs conducted under subsection (a) in updating the comprehensive policy on the care and management of covered service members under section 1611(a)(4).

TMA Version - March 2009

TMA Version - March 2009

"(e) Construction With Other Authorities.—

(1) In general.—Subject to paragraph (2), in carrying out a pilot program under subsection (a)—

(A) the rules and regulations of the Department of Defense and the Department of Veterans Affairs relating to methods of determining fitness or unfitness for duty and disability ratings for members of the Armed Forces shall apply to the pilot program only to the extent provided in the report on the pilot program under subsection (g)(1); and

(B) the Secretary of Defense and the Secretary of Veterans Affairs may waive any provision of title 10, 37, or 38, United States Code, relating to methods of determining fitness or unfitness for duty and disability ratings for members of the Armed Forces if the Secretaries determine in writing that the application of such provision would be inconsistent with the purpose of the pilot program.

(2) Limitation.—Nothing in paragraph (1) shall be construed to authorize the waiver of any provision of section 1216a of title 10, United States Code, as added by section 1642 of this Act.

"(f) Duration.—Each pilot program conducted under subsection (a) shall be completed not later than one year after the date of the commencement of such pilot program under that subsection.

"(g) Reports.—

(1) Initial report.—Not later than 90 days after the date of the enactment of this Act [Jan. 28, 2008], the Secretary of Defense shall submit to the appropriate committees of Congress a report on each pilot program that has been commenced as of that date under subsection (a). The report shall include—

(A) a description of the scope and objectives of the pilot program;

(B) a description of the methodology to be used under the pilot program to ensure rapid identification under such pilot program of revised or improved practices under the disability evaluation system in order to achieve the objectives set forth in subsection (c)(1); and

(C) a statement of any provision described in subsection (e)(1)(B) that will not apply to the pilot program by reason of a waiver under that subsection.

(2) Interim report.—Not later than 180 days after the date of the submittal of the report required by paragraph (1) with respect to a pilot program, the Secretary shall submit to the appropriate committees of Congress a report describing the current status of the pilot program.

(3) Final report.—Not later than 90 days after the completion of all of the pilot programs conducted under subsection (a), the Secretary shall submit to the appropriate committees of Congress a report setting forth a final evaluation and assessment of the pilot programs. The report shall include such recommendations for legislative or administrative action as the Secretary considers appropriate in light of such pilot programs.

"SEC. 1648. STANDARDS FOR MILITARY MEDICAL TREATMENT FACILITIES, SPECIALTY MEDICAL CARE FACILITIES, AND MILITARY QUARTERS HOUSING PATIENTS AND ANNUAL REPORT ON SUCH FACILITIES.

"(a) Establishment of Standards.—The Secretary of Defense shall establish for the military facilities of the Department of Defense and the military departments referred to in subsection (b) standards with respect to the matters set forth in subsection (c). To the maximum extent practicable, the standards shall—

(1) be uniform and consistent for all such facilities; and

(2) be uniform and consistent throughout the Department of Defense and the military departments.

"(b) Covered Military Facilities.—The military facilities covered by this section are the following:
(1) Military medical treatment facilities.
(2) Specialty medical care facilities.
(3) Military quarters or leased housing for patients.
"(c) Scope of Standards.—The standards required by subsection (a) shall include the following:
(1) Generally accepted standards for the accreditation of medical facilities, or for facilities used to quarter individuals that may require medical supervision, as applicable, in the United States.
(2) To the extent not inconsistent with the standards described in paragraph (1), minimally acceptable conditions for the following:
(A) Appearance and maintenance of facilities generally, including the structure and roofs of facilities.
(B) Size, appearance, and maintenance of rooms housing or utilized by patients, including furniture and amenities in such rooms.
(C) Operation and maintenance of primary and back-up facility utility systems and other systems required for patient care, including electrical systems, plumbing systems, heating, ventilation, and air conditioning systems, communications systems, fire protection systems, energy management systems, and other systems required for patient care.
(D) Compliance of facilities, rooms, and grounds, to the maximum extent practicable, with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.).
(E) Such other matters relating to the appearance, size, operation, and maintenance of facilities and rooms as the Secretary considers appropriate.
"(d) Compliance With Standards.—
(1) Deadline.—In establishing standards under subsection (a), the Secretary shall specify a deadline for compliance with such standards by each facility referred to in subsection (b). The deadline shall be at the earliest date practicable after the date of the enactment of this Act [Jan. 28, 2008], and shall, to the maximum extent practicable, be uniform across the facilities referred to in subsection (b).
(2) Investment.—In carrying out this section, the Secretary shall also establish guidelines for investment to be utilized by the Department of Defense and the military departments in determining the allocation of financial resources to facilities referred to in subsection (b) in order to meet the deadline specified under paragraph (1).
"(e) Report on Development and Implementation of Standards.—
(1) In general.—Not later than March 1, 2008, the Secretary shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the actions taken to carry out subsection (a).
(2) Elements.—The report under paragraph (1) shall include the following:
(A) The standards established under subsection (a).
(B) An assessment of the appearance, condition, and maintenance of each facility referred to in subsection (b), including—
(i) an assessment of the compliance of the facility with the standards established under subsection (a); and
(ii) a description of any deficiency or noncompliance in each facility with the standards.
(C) A description of the investment to be allocated to address each deficiency or noncompliance identified under subparagraph (B)(ii).
"(f) Annual Report.—Not later than the date on which the President submits the budget for a fiscal year to Congress pursuant to section 1105 of title 31, United States Code, the Secretary

TMA Version - March 2009

TMA Version - March 2009

shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the adequacy, suitability, and quality of each facility referred to in subsection (b). The Secretary shall include in each report information regarding—

(1) any deficiencies in the adequacy, quality, or state of repair of medical-related support facilities raised as a result of information received during the period covered by the report through the toll-free hot line required by section 1616; and

(2) the investigations conducted and plans of action prepared under such section to respond to such deficiencies.

"SEC. 1651. HANDBOOK FOR MEMBERS OF THE ARMED FORCES ON COMPENSATION AND BENEFITS AVAILABLE FOR SERIOUS INJURIES AND ILLNESSES.

"(a) Information on Available Compensation and Benefits.—Not later than October 1, 2008, the Secretary of Defense shall develop and maintain, in handbook and electronic form, a comprehensive description of the compensation and other benefits to which a member of the Armed Forces, and the family of such member, would be entitled upon the separation or retirement of the member from the Armed Forces as a result of a serious injury or illness. The handbook shall set forth the range of such compensation and benefits based on grade, length of service, degree of disability at separation or retirement, and such other factors affecting such compensation and benefits as the Secretary considers appropriate.

"(b) Consultation.—The Secretary of Defense shall develop and maintain the comprehensive description required by subsection (a), including the handbook and electronic form of the description, in consultation with the Secretary of Veterans Affairs, the Secretary of Health and Human Services, and the Commissioner of Social Security.

"(c) Update.—The Secretary of Defense shall update the comprehensive description required by subsection (a), including the handbook and electronic form of the description, on a periodic basis, but not less often than annually.

"(d) Provision to Members.—The Secretary of the military department concerned shall provide the descriptive handbook under subsection (a) to each member of the Armed Forces described in that subsection as soon as practicable following the injury or illness qualifying the member for coverage under such subsection.

"(e) Provision to Representatives.—If a member is incapacitated or otherwise unable to receive the descriptive handbook to be provided under subsection (a), the handbook shall be provided to the next of kin or a legal representative of the member, as determined in accordance with regulations prescribed by the Secretary of the military department concerned for purposes of this section.

"SEC. 1662. ACCESS OF RECOVERING SERVICE MEMBERS TO ADEQUATE OUTPATIENT RESIDENTIAL FACILITIES.

"(a) Required Inspections of Facilities.—All quarters of the United States and housing facilities under the jurisdiction of the Armed Forces that are occupied by recovering service members shall be inspected on a semiannual basis for the first two years after the enactment of this Act [Jan. 28, 2008] and annually thereafter by the inspectors general of the regional medical commands.

"(b) Inspector General Reports.—The inspector general for each regional medical command shall—

(1) submit a report on each inspection of a facility conducted under subsection (a) to the post commander at such facility, the commanding officer of the hospital affiliated with such facility, the surgeon general of the military department that operates such hospital, the Secretary of the military department concerned, the Assistant Secretary of Defense for

Health Affairs, and the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives]; and
(2) post each such report on the Internet website of such regional medical command.

"SEC. 1671. PROHIBITION ON TRANSFER OF RESOURCES FROM MEDICAL CARE.
"Neither the Secretary of Defense nor the Secretaries of the military departments may transfer funds or personnel from medical care functions to administrative functions within the Department of Defense in order to comply with the new administrative requirements imposed by this title [see Short Title of 2008 Amendment note above] or the amendments made by this title.

"SEC. 1672. MEDICAL CARE FOR FAMILIES OF MEMBERS OF THE ARMED FORCES RECOVERING FROM SERIOUS INJURIES OR ILLNESSES.
"(a) Medical Care at Military Medical Facilities.—
(1) Medical care.—A family member of a recovering service member who is not otherwise eligible for medical care at a military medical treatment facility may be eligible for such care at such facilities, on a space-available basis, if the family member is—
(A) on invitational orders while caring for the service member;
(B) a non-medical attendee caring for the service member; or
(C) receiving per diem payments from the Department of Defense while caring for the service member.
(2) Specification of family members.—The Secretary of Defense may prescribe in regulations the family members of recovering service members who shall be considered to be a family member of a service member for purposes of this subsection.
(3) Specification of care.—The Secretary of Defense shall prescribe in regulations the medical care that may be available to family members under this subsection at military medical treatment facilities.
(4) Recovery of costs.—The United States may recover the costs of the provision of medical care under this subsection as follows (as applicable):
(A) From third-party payers, in the same manner as the United States may collect costs of the charges of health care provided to covered beneficiaries from third-party payers under section 1095 of title 10, United States Code.
(B) As if such care was provided under the authority of section 1784 of title 38, United States Code.
"(b) Medical Care at Department of Veterans Affairs Medical Facilities.—
(1) Medical care.—When a recovering service member is receiving hospital care and medical services at a medical facility of the Department of Veterans Affairs, the Secretary of Veterans Affairs may provide medical care for eligible family members under this section when that care is readily available at that Department facility and on a space-available basis.
(2) Regulations.—The Secretary of Veterans Affairs shall prescribe in regulations the medical care that may be available to family members under this subsection at medical facilities of the Department of Veterans Affairs.

"SEC. 1676. MORATORIUM ON CONVERSION TO CONTRACTOR PERFORMANCE OF DEPARTMENT OF DEFENSE FUNCTIONS AT MILITARY MEDICAL FACILITIES.
"(a) Moratorium.—No study or competition may be begun or announced pursuant to section 2461 of title 10, United States Code, or otherwise pursuant to Office of Management and Budget circular A-76, relating to the possible conversion to performance by a contractor of any

TMA Version - March 2009

TMA Version - March 2009

Department of Defense function carried out at a military medical facility until the Secretary of Defense—

(1) submits the certification required by subsection (b) to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives together with a description of the steps taken by the Secretary in accordance with the certification; and

(2) submits the report required by subsection (c).

"(b) Certification.—The certification referred to in paragraph (a)(1) is a certification that the Secretary has taken appropriate steps to ensure that neither the quality of military medical care nor the availability of qualified personnel to carry out Department of Defense functions related to military medical care will be adversely affected by either—

(1) the process of considering a Department of Defense function carried out at a military medical facility for possible conversion to performance by a contractor; or

(2) the conversion of such a function to performance by a contractor.

"(c) Report Required.—Not later than 180 days after the date of the enactment of this Act [Jan. 28, 2008], the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the public-private competitions being conducted for Department of Defense functions carried out at military medical facilities as of the date of the enactment of this Act by each military department and defense agency. Such report shall include—

(1) for each such competition—

(A) the cost of conducting the public-private competition;

(B) the number of military personnel and civilian employees of the Department of Defense affected;

(C) the estimated savings identified and the savings actually achieved;

(D) an evaluation whether the anticipated and budgeted savings can be achieved through a public-private competition; and

(E) the effect of converting the performance of the function to performance by a contractor on the quality of the performance of the function; and

(2) an assessment of whether any method of business reform or reengineering other than a public-private competition could, if implemented in the future, achieve any anticipated or budgeted savings."

Disease And Chronic Care Management

Pub. L. 109-364, div. A, title VII, Sec. 734, Oct. 17, 2006, 120 Stat. 2299, provided that:

"(a) Program Design and Development Required.—Not later than October 1, 2007, the Secretary of Defense shall design and develop a fully integrated program on disease and chronic care management for the military health care system that provides, to the extent practicable, uniform policies and practices on disease management and chronic care management throughout that system, including both military hospitals and clinics and civilian healthcare providers within the TRICARE network.

"(b) Purposes of Program.—The purposes of the program required by subsection (a) are as follows:

"(1) To facilitate the improvement of the health status of individuals under care in the military health care system.

"(2) To ensure the availability of effective health care services in that system for individuals with diseases and other chronic conditions.

"(3) To ensure the proper allocation of health care resources for individuals who need care for disease or other chronic conditions.

"(c) Elements of Program Design.—The program design required by subsection (a) shall meet the following requirements:

"(1) Based on uniform policies prescribed by the Secretary, the program shall, at a minimum, address the following chronic diseases and conditions:

"(A) Diabetes.

"(B) Cancer.

"(C) Heart disease.

"(D) Asthma.

"(E) Chronic obstructive pulmonary disorder.

"(F) Depression and anxiety disorders.

"(2) The program shall meet nationally recognized accreditation standards for disease and chronic care management.

"(3) The program shall include specific outcome measures and objectives on disease and chronic care management.

"(4) The program shall include strategies for disease and chronic care management for all beneficiaries, including beneficiaries eligible for benefits under the Medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.), for whom the TRICARE program is not the primary payer for health care benefits.

"(5) Activities under the program shall conform to applicable laws and regulations relating to the confidentiality of health care information.

"(d) Implementation Plan Required.—Not later than February 1, 2008, the Secretary of Defense, in coordination with the Secretaries of the military departments, shall develop an implementation plan for the disease and chronic care management program. In order to facilitate the carrying out of the program, the plan developed by the Secretary shall—

"(1) require a comprehensive analysis of the disease and chronic care management opportunities within each region of the TRICARE program, including within military treatment facilities and through contractors under the TRICARE program;

"(2) ensure continuous, adequate funding of disease and chronic care management activities throughout the military health care system in order to achieve maximum health outcomes and cost avoidance;

"(3) eliminate, to the extent practicable, any financial disincentives to sustained investment by military hospitals and health care services contractors of the Department of Defense in the disease and chronic care management activities of the Department;

"(4) ensure that appropriate clinical and claims data, including pharmacy utilization data, is available for use in implementing the program;

"(5) ensure outreach to eligible beneficiaries who, on the basis of their clinical conditions, are candidates for the program utilizing print and electronic media, telephone, and personal interaction; and

"(6) provide a system for monitoring improvements in health status and clinical outcomes under the program and savings associated with the program.

"(e) Report.—

"(1) In general.—Not later than March 1, 2008, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the design, development, and implementation of the program on disease and chronic care management required by this section.

"(2) Report elements.—The report required by paragraph (1) shall include the following:

"(A) A description of the design and development of the program required by subsection (a).

"(B) A description of the implementation plan required by subsection (d).

TMA Version - March 2009

"(C) A description and assessment of improvements in health status and clinical outcomes that are anticipated as a result of implementation of the program.
"(D) A description of the savings and return on investment associated with the program.
"(E) A description of an investment strategy to assure the sustainment of the disease and chronic care management programs of the Department of Defense."

Prevention, Mitigation, And Treatment Of Blast Injuries

Pub. L. 109-163, div. A, title II, Sec. 256, Jan. 6, 2006, 119 Stat. 3181, provided that:

"(a) Designation of Executive Agent.—The Secretary of Defense shall designate an executive agent to be responsible for coordinating and managing the medical research efforts and programs of the Department of Defense relating to the prevention, mitigation, and treatment of blast injuries.

"(b) General Responsibilities.—The executive agent designated under subsection (a) shall be responsible for—

"(1) planning for the medical research and development projects, diagnostic and field treatment programs, and patient tracking and monitoring activities within the Department that relate to combat blast injuries;
"(2) efficient execution of such projects, programs, and activities;
"(3) enabling the sharing of blast injury health hazards and survivability data collected through such projects, programs, and activities with the programs of the Department of Defense;
"(4) working with the Director, Defense Research and Engineering and the Secretaries of the military departments to ensure resources are adequate to also meet non-medical requirements related to blast injury prevention, mitigation, and treatment; and
"(5) ensuring that a joint combat trauma registry is established and maintained for the purposes of collection and analysis of contemporary combat casualties, including casualties with traumatic brain injury.

"(c) Medical Research Efforts.—

"(1) In general.—The executive agent designated under subsection (a) shall review and assess the adequacy of medical research efforts of the Department of Defense as of the date of the enactment of this Act [Jan. 6, 2006] relating to the following:

"(A) The characterization of blast effects leading to injury, including the injury potential of blasts in various environments.
"(B) Medical technologies and protocols to more accurately detect and diagnose blast injuries, including improved discrimination between traumatic brain injuries and mental health disorders.
"(C) Enhanced treatment of blast injuries in the field.
"(D) Integrated treatment approaches for members of the Armed Forces who have a combination of traumatic brain injuries and mental health disorders or other injuries.
"(E) Such other blast injury matters as the executive agent considers appropriate.

"(2) Requirements for research efforts.—Based on the assessment under paragraph (1), the executive agent shall establish requirements for medical research efforts described in that paragraph in order to enhance and accelerate those research efforts.
"(3) Oversight of research efforts.—The executive agent shall establish, coordinate, and oversee Department-wide medical research efforts relating to the prevention, mitigation, and treatment of blast injuries, as necessary, to fulfill requirements established under paragraph (2).

TMA Version - March 2009

"(d) Other Related Research Efforts.—The Director, Defense Research and Engineering, in coordination with the executive agent designated under subsection (a) and the Director of the Joint IED Defeat Task Force, shall—

"(1) review and assess the adequacy of current research efforts of the Department on the prevention and mitigation of blast injuries;

"(2) based on subsection (c)(1), establish requirements for further research; and

"(3) address any deficiencies identified in paragraphs (1) and (2) by establishing, coordinating, and overseeing Department-wide research and development initiatives on the prevention and mitigation of blast injuries, including explosive detection and defeat and personnel and vehicle blast protection.

"(e) Studies.—The executive agent designated under subsection (a) shall conduct studies on the prevention, mitigation, and treatment of blast injuries, including—

"(1) studies to improve the clinical evaluation and treatment approach for blast injuries, with an emphasis on traumatic brain injuries and other consequences of blast injury, including acoustic and eye injuries and injuries resulting from over-pressure wave;

"(2) studies on the incidence of traumatic brain injuries attributable to blast injury in soldiers returning from combat;

"(3) studies to develop protocols for medical tracking of members of the Armed Forces for up to five years following blast injuries; and

"(4) studies to refine and improve educational interventions for blast injury survivors and their families.

"(f) Training.—The executive agent designated under subsection (a), in coordination with the Director of the Joint IED Defeat Task Force, shall develop training protocols for medical and non-medical personnel on the prevention, mitigation, and treatment of blast injuries. Those protocols shall be intended to improve field and clinical training on early identification of blast injury consequences, both seen and unseen, including traumatic brain injuries, acoustic injuries, and internal injuries.

"(g) Information Sharing.—The executive agent designated under subsection (a) shall make available the results of relevant medical research and development projects and studies to—

"(1) Department of Defense programs focused on—

"(A) promoting the exchange of blast health hazards data with blast characterization data and blast modeling and simulation tools; and

"(B) encouraging the incorporation of blast hazards data into design and operational features of blast detection, mitigation, and defeat capabilities, such as comprehensive armor systems which provide blast, ballistic, and fire protection for the head, neck, ears, eyes, torso, and extremities; and

"(2) traumatic brain injury treatment programs to enhance the evaluation and care of members of the Armed Forces with traumatic brain injuries in medical facilities in the United States and in deployed medical facilities, including those outside the Department of Defense.

"(h) Reports on Blast Injury Matters.—

"(1) Reports required.—Not later than 270 days after the date of the enactment of this Act [Jan. 6, 2006], and annually thereafter through 2008, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the efforts and programs of the Department of Defense relating to the prevention, mitigation, and treatment of blast injuries.

"(2) Elements.—Each report under paragraph (1) shall include the following:

"(A) A description of the activities undertaken under this section during the two years preceding the report to improve the prevention, mitigation, and treatment of blast injuries.

TMA Version - March 2009

TMA Version - March 2009

"(B) A consolidated budget presentation for Department of Defense biomedical research efforts and studies related to blast injury for the two fiscal years following the year of the report.

"(C) A description of any gaps in the capabilities of the Department and any plans to address such gaps within biomedical research related to blast injury, blast injury diagnostic and treatment programs, and blast injury tracking and monitoring activities.

"(D) A description of collaboration, if any, with other departments and agencies of the Federal Government, and with other countries, during the two years preceding the report in efforts for the prevention, mitigation, and treatment of blast injuries.

"(E) A description of any efforts during the two years preceding the report to disseminate findings on the diagnosis and treatment of blast injuries through civilian and military research and medical communities.

"(F) A description of the status of efforts during the two years preceding the report to incorporate blast injury effects data into appropriate programs of the Department of Defense and into the development of comprehensive force protection systems that are effective in confronting blast, ballistic, and fire threats.

"(i) Deadline for Designation of Executive Agent.—The Secretary shall make the designation required by subsection (a) not later than 90 days after the date of the enactment of this Act [Jan. 6, 2006].

"(j) Blast Injuries Defined.—In this section, the term 'blast injuries' means injuries that occur as the result of the detonation of high explosives, including vehicle-borne and person-borne explosive devices, rocket-propelled grenades, and improvised explosive devices.

"(k) Executive Agent Defined.—In this section, the term 'executive agent' has the meaning provided such term in Department of Defense Directive 5101.1."

Access To Health Care Services For Beneficiaries Eligible For TRICARE And Department Of Veterans Affairs Health Care

Pub. L. 107-314, div. A, title VII, Sec. 708, Dec. 2, 2002, 116 Stat. 2585, provided that:

"(a) Requirement To Establish Process.—(1) The Secretary of Defense shall prescribe in regulations a process for resolving issues relating to patient safety and continuity of care for covered beneficiaries who are concurrently entitled to health care under the TRICARE program and eligible for health care services provided by the Department of Veterans Affairs. The Secretary shall—

"(A) ensure that the process provides for coordination of, and access to, health care from the two sources in a manner that prevents diminution of access to health care from either source; and

"(B) in consultation with the Secretary of Veterans Affairs, prescribe a clear definition of an 'episode of care' for use in the resolution of patient safety and continuity of care issues under such process.

"(2) Not later than May 1, 2003, the Secretary shall submit to the Committees on Armed Services of the Senate and of the House of Representatives a report describing the process prescribed under paragraph (1).

"(3) While prescribing the process under paragraph (1) and upon completion of the report under paragraph (2), the Secretary shall provide to the Comptroller General information that would be relevant in carrying out the study required by subsection (b).

"(b) Comptroller General Study and Report.—(1) The Comptroller General shall conduct a study of the health care issues of covered beneficiaries described in subsection (a). The study shall include the following:

"(A) An analysis of whether covered beneficiaries who seek services through the Department of Veterans Affairs are receiving needed health care services in a timely

manner from the Department of Veterans Affairs, as compared to the timeliness of the care available to covered beneficiaries under TRICARE Prime (as set forth in access to care standards under TRICARE program policy that are applicable to the care being sought).

"(B) An evaluation of the quality of care for covered beneficiaries who do not receive needed services from the Department of Veterans Affairs within a time period that is comparable to the time period provided for under such access to care standards and who then must seek alternative care under the TRICARE program.

"(C) Recommendations to improve access to, and timeliness and quality of, care for covered beneficiaries described in subsection (a).

"(D) An evaluation of the feasibility and advisability of making access to care standards applicable jointly under the TRICARE program and the Department of Veterans Affairs health care system.

"(E) A review of the process prescribed by the Secretary of Defense under subsection (a) to determine whether the process ensures the adequacy and quality of the health care services provided to covered beneficiaries under the TRICARE program and through the Department of Veterans Affairs, together with timeliness of access to such services and patient safety.

"(2) Not later than 60 days after the congressional committees specified in subsection (a)(2) receive the report required under that subsection, the Comptroller General shall submit to those committees a report on the study conducted under this subsection.

"(c) Definitions.—In this section:

"(1) The term 'covered beneficiary' has the meaning provided by section 1072(5) of title 10, United States Code.

"(2) The term 'TRICARE program' has the meaning provided by section 1072(7) of such title.

"(3) The term 'TRICARE Prime' has the meaning provided by section 1097a(f) of such title."

Pilot Program Providing For Department Of Veterans Affairs Support In The Performance Of Separation Physical Examinations

Pub. L. 107-107, div. A, title VII, Sec. 734, Dec. 28, 2001, 115 Stat. 1170, authorized the Secretary of Defense and the Secretary of Veterans Affairs to jointly carry out a pilot program, to begin not later than July 1, 2002, and terminate on Dec. 31, 2005, under which the Secretary of Veterans Affairs, in one or more geographic areas, could perform the physical examinations required for separation of members from the uniformed services, and directed the Secretaries to jointly submit to Congress interim and final reports not later than Mar. 1, 2005.

Health Care Management Demonstration Program

Pub. L. 106-398, Sec. 1 [[div. A], title VII, Sec. 733], Oct. 30, 2000, 114 Stat. 1654, 1654A-191, as amended by Pub. L. 107-107, div. A, title VII, Sec. 737, Dec. 28, 2001, 115 Stat. 1173, directed the Secretary of Defense to carry out a demonstration program on health care management, to begin not later than 180 days after Oct. 30, 2000, and terminate on Dec. 31, 2003, to explore opportunities for improving the planning, programming, budgeting systems, and management of the Department of Defense health care system, and directed the Secretary to submit a report on such program to committees of Congress not later than Mar. 15, 2004.

Processes For Patient Safety In Military And Veterans Health Care Systems

Pub. L. 106-398, Sec. 1 [[div. A], title VII, Sec. 742], Oct. 30, 2000, 114 Stat. 1654, 1654A-192, provided that:

"(a) Error Tracking Process.—The Secretary of Defense shall implement a centralized process for reporting, compilation, and analysis of errors in the provision of health care under the defense

TMA Version - March 2009

TMA Version - March 2009

health program that endanger patients beyond the normal risks associated with the care and treatment of such patients. To the extent practicable, that process shall emulate the system established by the Secretary of Veterans Affairs for reporting, compilation, and analysis of errors in the provision of health care under the Department of Veterans Affairs health care system that endanger patients beyond such risks.

"(b) Sharing of Information.—The Secretary of Defense and the Secretary of Veterans Affairs—

"(1) shall share information regarding the designs of systems or protocols established to reduce errors in the provision of health care described in subsection (a); and

"(2) shall develop such protocols as the Secretaries consider necessary for the establishment and administration of effective processes for the reporting, compilation, and analysis of such errors."

Cooperation In Developing Pharmaceutical Identification Technology

Pub. L. 106-398, Sec. 1 [[div. A], title VII, Sec. 743], Oct. 30, 2000, 114 Stat. 1654, 1654A-192, provided that: "The Secretary of Defense and the Secretary of Veterans Affairs shall cooperate in developing systems for the use of bar codes for the identification of pharmaceuticals in the health care programs of the Department of Defense and the Department of Veterans Affairs. In any case in which a common pharmaceutical is used in such programs, the bar codes for those pharmaceuticals shall, to the maximum extent practicable, be identical."

Patient Care Reporting And Management System

Pub. L. 106-398, Sec. 1 [[div. A], title VII, Sec. 754], Oct. 30, 2000, 114 Stat. 1654, 1654A-196, as amended by Pub. L. 109-163, div. A, title VII, Sec. 741, Jan. 6, 2006, 119 Stat. 3360, provided that:

"(a) Establishment.—The Secretary of Defense shall establish a patient care error reporting and management system.

"(b) Purposes of System.—The purposes of the system are as follows:

"(1) To study the occurrences of errors in the patient care provided under chapter 55 of title 10, United States Code.

"(2) To identify the systemic factors that are associated with such occurrences.

"(3) To provide for action to be taken to correct the identified systemic factors.

"(c) Requirements for System.—The patient care error reporting and management system shall include the following:

"(1) A hospital-level patient safety center, within the quality assurance department of each health care organization of the Department of Defense, to collect, assess, and report on the nature and frequency of errors related to patient care.

"(2) For each health care organization of the Department of Defense and for the entire Defense health program, patient safety standards that are necessary for the development of a full understanding of patient safety issues in each such organization and the entire program, including the nature and types of errors and the systemic causes of the errors.

"(3) Establishment of a Department of Defense Patient Safety Center, which shall have the following missions:

"(A) To analyze information on patient care errors that is submitted to the Center by each military health care organization.

"(B) To develop action plans for addressing patterns of patient care errors.

"(C) To execute those action plans to mitigate and control errors in patient care with a goal of ensuring that the health care organizations of the Department of Defense provide highly reliable patient care with virtually no error.

"(D) To provide, through the Assistant Secretary of Defense for Health Affairs, to the Agency for Healthcare Research and Quality of the Department of Health and Human Services any reports that the Assistant Secretary determines appropriate.

"(E) To review and integrate processes for reducing errors associated with patient care and for enhancing patient safety.

"(F) To contract with a qualified and objective external organization to manage the national patient safety database of the Department of Defense.

"(d) Medical Team Training Program.—The Secretary shall expand the health care team coordination program to integrate that program into all Department of Defense health care operations. In carrying out this subsection, the Secretary shall take the following actions:

"(1) Establish not less than two Centers of Excellence for the development, validation, proliferation, and sustainment of the health care team coordination program, one of which shall support all fixed military health care organizations, the other of which shall support all combat casualty care organizations.

"(2) Deploy the program to all fixed and combat casualty care organizations of each of the Armed Forces, at the rate of not less than 10 organizations in each fiscal year.

"(3) Expand the scope of the health care team coordination program from a focus on emergency department care to a coverage that includes care in all major medical specialties, at the rate of not less than one specialty in each fiscal year.

"(4) Continue research and development investments to improve communication, coordination, and team work in the provision of health care.

"(e) Consultation.—The Secretary shall consult with the other administering Secretaries (as defined in section 1072(3) of title 10, United States Code) in carrying out this section."

Confidentiality Of Communications With Professionals Providing Therapeutic Or Related Services Regarding Sexual Or Domestic Abuse

Pub. L. 106-65, div. A, title V, Sec. 585, Oct. 5, 1999, 113 Stat. 636, provided that:

"(a) Study and Report.—(1) The Comptroller General of the United States shall study the policies, procedures, and practices of the military departments for protecting the confidentiality of communications between—

"(A) a dependent (as defined in section 1072(2) of title 10, United States Code, with respect to a member of the Armed Forces) of a member of the Armed Forces who—

"(i) is a victim of sexual harassment, sexual assault, or intrafamily abuse; or

"(ii) has engaged in such misconduct; and

"(B) a therapist, counselor, advocate, or other professional from whom the dependent seeks professional services in connection with effects of such misconduct.

"(2) Not later than 180 days after the date of the enactment of this Act [Oct. 5, 1999], the Comptroller General shall conclude the study and submit a report on the results of the study to Congress and the Secretary of Defense.

"(b) Regulations.—The Secretary of Defense shall prescribe in regulations the policies and procedures that the Secretary considers appropriate to provide the maximum protections for the confidentiality of communications described in subsection (a) relating to misconduct described in that subsection, taking into consideration—

"(1) the findings of the Comptroller General;

"(2) the standards of confidentiality and ethical standards issued by relevant professional organizations;

"(3) applicable requirements of Federal and State law;

"(4) the best interest of victims of sexual harassment, sexual assault, or intrafamily abuse;

"(5) military necessity; and

"(6) such other factors as the Secretary, in consultation with the Attorney General, may consider appropriate.

"(c) Report by Secretary of Defense.—Not later than January 21, 2000, the Secretary of Defense shall submit to Congress a report on the actions taken under subsection (b) and any other

TMA Version - March 2009

actions taken by the Secretary to provide the maximum possible protections for confidentiality described in that subsection."

Health Care Quality Information And Technology Enhancement

Pub. L. 106-65, div. A, title VII, Sec. 723, Oct. 5, 1999, 113 Stat. 695, as amended by Pub. L. 106-398, Sec. 1 [[div. A], title VII, Sec. 753(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A-195; Pub. L. 109-163, div. A, title VII, Sec. 742, Jan. 6, 2006, 119 Stat. 3360; Pub. L. 109-364, div. A, title X, Sec. 1046(e), Oct. 17, 2006, 120 Stat. 2394, provided that:

"(a) Purpose.—The purpose of this section is to ensure that the Department of Defense addresses issues of medical quality surveillance and implements solutions for those issues in a timely manner that is consistent with national policy and industry standards.

"(b) Department of Defense Program for Medical Informatics and Data.—The Secretary of Defense shall establish a Department of Defense program, the purposes of which shall be the following:

"(1) To develop parameters for assessing the quality of health care information.

"(2) To develop the defense digital patient record.

"(3) To develop a repository for data on quality of health care.

"(4) To develop capability for conducting research on quality of health care.

"(5) To conduct research on matters of quality of health care.

"(6) To develop decision support tools for health care providers.

"(7) To refine medical performance report cards.

"(8) To conduct educational programs on medical informatics to meet identified needs.

"(c) Automation and Capture of Clinical Data.—(1) Through the program established under subsection (b), the Secretary of Defense shall accelerate the efforts of the Department of Defense to automate, capture, and exchange controlled clinical data and present providers with clinical guidance using a personal information carrier, clinical lexicon, or digital patient record.

"(2) The program shall serve as a primary resource for the Department of Defense for matters concerning the capture, processing, and dissemination of data on health care quality.

"(d) Medical Informatics Advisory Committee.—(1) The Secretary of Defense shall establish a Medical Informatics Advisory Committee (hereinafter referred to as the 'Committee'), the members of which shall be the following:

"(A) The Assistant Secretary of Defense for Health Affairs.

"(B) The Director of the TRICARE Management Activity of the Department of Defense.

"(C) The Surgeon General of the Army.

"(D) The Surgeon General of the Navy.

"(E) The Surgeon General of the Air Force.

"(F) Representatives of the Department of Veterans Affairs, designated by the Secretary of Veterans Affairs.

"(G) Representatives of the Department of Health and Human Services, designated by the Secretary of Health and Human Services.

"(H) Any additional members appointed by the Secretary of Defense to represent health care insurers and managed care organizations, academic health institutions, health care providers (including representatives of physicians and representatives of hospitals), and accreditors of health care plans and organizations.

"(2) The primary mission of the Committee shall be to advise the Secretary on the development, deployment, and maintenance of health care informatics systems that allow for the collection, exchange, and processing of health care quality information for the

TMA Version - March 2009

Department of Defense in coordination with other Federal departments and agencies and with the private sector.

"(3) Specific areas of responsibility of the Committee shall include advising the Secretary on the following:

"(A) The ability of the medical informatics systems at the Department of Defense and Department of Veterans Affairs to monitor, evaluate, and improve the quality of care provided to beneficiaries.

"(B) The coordination of key components of medical informatics systems, including digital patient records, both within the Federal Government and between the Federal Government and the private sector.

"(C) The development of operational capabilities for executive information systems and clinical decision support systems within the Department of Defense and Department of Veterans Affairs.

"(D) Standardization of processes used to collect, evaluate, and disseminate health care quality information.

"(E) Refinement of methodologies by which the quality of health care provided within the Department of Defense and Department of Veterans Affairs is evaluated.

"(F) Protecting the confidentiality of personal health information.

"(4) The Assistant Secretary of Defense for Health Affairs shall consult with the Committee on the issues described in paragraph (3).

"(5) Members of the Committee shall not be paid by reason of their service on the Committee.

"(6) The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Committee.

"(e) Annual Report.—The Assistant Secretary of Defense for Health Affairs shall submit to Congress on an annual basis a report on the quality of health care furnished under the health care programs of the Department of Defense. The report shall cover the most recent fiscal year ending before the date the report is submitted and shall contain a discussion of the quality of the health care measured on the basis of each statistical and customer satisfaction factor that the Assistant Secretary determines appropriate, including, at a minimum, a discussion of the following:

"(1) Measures of the quality of health care furnished, including timeliness and accessibility of care.

"(2) Population health.

"(3) Patient safety.

"(4) Patient satisfaction.

"(5) The extent of use of evidence-based health care practices.

"(6) The effectiveness of biosurveillance in detecting an emerging epidemic."

Joint Department Of Defense And Department Of Veterans Affairs Reports Relating To Interdepartmental Cooperation In Delivery Of Medical Care

Pub. L. 105-261, div. A, title VII, Sec. 745, Oct. 17, 1998, 112 Stat. 2075, as amended by Pub. L. 106-65, div. A, title X, Sec. 1067(3), Oct. 5, 1999, 113 Stat. 774; Pub. L. 108-136, div. A, title X, Sec. 1031(g)(1), Nov. 24, 2003, 117 Stat. 1604, (1) directed the Secretary of Defense and the Secretary of Veterans Affairs to jointly conduct a survey of their respective medical care beneficiary populations to identify the expectations of, requirements for, and behavior patterns of the beneficiaries with respect to medical care, and to submit a report on the results of the survey to committees of Congress not later than Jan. 1, 2000; (2) directed the same Secretaries to jointly conduct a review to identify impediments to cooperation between the Department of Defense and the Department of Veterans Affairs regarding the delivery of medical care and to submit a report on the results of the review to committees of Congress not later than Mar. 1, 1999; (3) directed the Secretary of Defense

TMA Version - March 2009

TMA Version - March 2009

to review the TRICARE program to identify opportunities for increased participation by the Department of Veterans Affairs in that program; (4) directed the Department of Defense-Department of Veterans Affairs Federal Pharmacy Executive Steering Committee to examine existing pharmaceutical benefits and programs for beneficiaries and review existing methods for contracting for and distributing medical supplies and services and to submit a report on the results of the examination to committees of Congress not later than 60 days after its completion; and (5) directed the Secretary of Defense and the Secretary of Veterans Affairs to jointly submit to committees of Congress a report, not later than Mar. 1, 1999, on the status of the efforts of the Department of Defense and the Department of Veterans Affairs to standardize physical examinations administered by the two departments for the purpose of determining or rating disabilities.

External Peer Review For Defense Health Program Extramural Medical Research Involving Human Subjects

Pub. L. 104-201, div. A, title VII, Sec. 742, Sept. 23, 1996, 110 Stat. 2600, provided that:

"(a) Establishment of External Peer Review Process.—The Secretary of Defense shall establish a peer review process that will use persons who are not officers or employees of the Government to review the research protocols of medical research projects.

"(b) Peer Review Requirements.—Funds of the Department of Defense may not be obligated or expended for any medical research project unless the research protocol for the project has been approved by the external peer review process established under subsection (a).

"(c) Medical Research Project Defined.—For purposes of this section, the term 'medical research project' means a research project that—

"(1) involves the participation of human subjects;

"(2) is conducted solely by a non-Federal entity; and

"(3) is funded through the Defense Health Program account.

"(d) Effective Date.—The peer review requirements of subsection (b) shall take effect on October 1, 1996, and, except as provided in subsection (e), shall apply to all medical research projects proposed funded on or after that date, including medical research projects funded pursuant to any requirement of law enacted before, on, or after that date.

"(e) Exceptions.—Only the following medical research projects shall be exempt from the peer review requirements of subsection (b):

"(1) A medical research project that the Secretary determines has been substantially completed by October 1, 1996.

"(2) A medical research project funded pursuant to any provision of law enacted on or after that date if the provision of law specifically refers to this section and specifically states that the peer review requirements do not apply."

Annual Beneficiary Survey

Pub. L. 102-484, div. A, title VII, Sec. 724, Oct. 23, 1992, 106 Stat. 2440, as amended by Pub. L. 103-337, div. A, title VII, Sec. 717, Oct. 5, 1994, 108 Stat. 2804, provided that:

"(a) Survey Required.—The administering Secretaries shall conduct annually a formal survey of persons receiving health care under chapter 55 of title 10, United States Code, in order to determine the following:

"(1) The availability of health care services to such persons through the health care system provided for under that chapter, the types of services received, and the facilities in which the services were provided.

"(2) The familiarity of such persons with the services available under that system and with the facilities in which such services are provided.

"(3) The health of such persons.

"(4) The level of satisfaction of such persons with that system and the quality of the health care provided through that system.

"(5) Such other matters as the administering Secretaries determine appropriate.

"(b) Exemption.—An annual survey under subsection (a) shall be treated as not a collection of information for the purposes for which such term is defined in section 3502(4) of title 44, United States Code.

"(c) Definition.—For purposes of this section, the term 'administering Secretaries' has the meaning given such term in section 1072(3) of title 10, United States Code."

Comprehensive Study Of Military Medical Care System

Pub. L. 102-190, div. A, title VII, Sec. 733, Dec. 5, 1991, 105 Stat. 1408, as amended by Pub. L. 102-484, div. A, title VII, Sec. 723, Oct. 23, 1992, 106 Stat. 2440, directed Secretary of Defense to conduct a comprehensive study of the military medical care system, not later than Dec. 15, 1992, to submit to congressional defense committees a detailed accounting on progress of the study, including preliminary results of the study, and not later than Dec. 15, 1993, submit to congressional defense committees a final report on the study.

Identification And Treatment Of Drug And Alcohol Dependent Persons In The Armed Forces

Pub. L. 92-129, title V, Sec. 501, Sept. 28, 1971, 85 Stat. 361, which directed Secretary of Defense to devise ways to identify, treat, and rehabilitate drug and alcohol dependent members of the armed forces, to identify, refuse admission to, and refer to civilian treatment facilities such persons seeking entrance to the armed forces, and to report to Congress on and suggest additional legislation concerning these matters, was repealed and restated as sections 978 and 1090 of this title by Pub. L. 97-295, Secs. 1(14)(A), (15)(A), 6(b), Oct. 12, 1982, 96 Stat. 1289, 1290, 1314.

TMA Version - March 2009

(6) The term "child", with respect to a member or former member of a uniformed service, means the following:

(A) An unmarried legitimate child.

(B) An unmarried adopted child.

(C) An unmarried stepchild.

(D) An unmarried person—

(i) who is placed in the home of the member or former member by a placement agency (recognized by the Secretary of Defense), or by any other source authorized by State or local law to provide adoption placement, in anticipation of the legal adoption of the person by the member or former member; and

(ii) who otherwise meets the requirements specified in paragraph (2)(D).

(7) The term "TRICARE program" means the managed health care program that is established by the Department of Defense under the authority of this chapter, principally section 1097 of this title, and includes the competitive selection of contractors to financially underwrite the delivery of health care services under the Civilian Health and Medical Program of the Uniformed Services.

(8) The term "custodial care" means treatment or services, regardless of who recommends such treatment or services or where such treatment or services are provided, that—

(A) can be rendered safely and reasonably by a person who is not medically skilled; or

(B) is or are designed mainly to help the patient with the activities of daily living.

(9) The term "domiciliary care" means care provided to a patient in an institution or homelike environment because—

(A) providing support for the activities of daily living in the home is not available or is unsuitable; or

(B) members of the patient's family are unwilling to provide the care.

(10) The term "health care" includes mental health care.

TMA Version - March 2009

NOTES

Source

(Added Pub. L. 85-861, Sec. 1(25)(B), Sept. 2, 1958, 72 Stat. 1446; amended Pub. L. 89-614, Sec. 2(1), Sept. 30, 1966, 80 Stat. 862; Pub. L. 89-718, Sec. 8(a), Nov. 2, 1966, 80 Stat. 1117; Pub. L. 96-513, title I, Sec. 115(b), title V, Sec. 511(34)(A), (35), (36), Dec. 12, 1980, 94 Stat. 2877, 2922, 2923; Pub. L. 97-252,

TMA Version - March 2009

title X, Sec. 1004(a), Sept. 8, 1982, 96 Stat. 737; Pub. L. 98-525, title VI, Sec. 645(a), Oct. 19, 1984, 98 Stat. 2548; Pub. L. 98-557, Sec. 19(1), Oct. 30, 1984, 98 Stat. 2869; Pub. L. 99-661, div. A, title VII, Sec. 701(b), Nov. 14, 1986, 100 Stat. 3898; Pub. L. 101-189, div. A, title VII, Sec. 731(a), Nov. 29, 1989, 103 Stat. 1481; Pub. L. 102-484, div. A, title VII, Sec. 706, Oct. 23, 1992, 106 Stat. 2433; Pub. L. 103-160, div. A, title VII, Sec. 702(a), Nov. 30, 1993, 107 Stat. 1686; Pub. L. 103-337, div. A, title VII, Sec. 701(a), Oct. 5, 1994, 108 Stat. 2797; Pub. L. 105-85, div. A, title VII, Sec. 711, Nov. 18, 1997, 111 Stat. 1808; Pub. L. 107-107, div. A, title VII, Sec. 701(c), Dec. 28, 2001, 115 Stat. 1160; Pub. L. 109-163, div. A, title V, Sec. 592(b), title X, Sec. 1057(a)(2), Jan. 6, 2006, 119 Stat. 3280, 3440; Pub. L. 110-181, div. A, title VII, Sec. 708(a), Jan. 28, 2008, 122 Stat. 190.)

HISTORICAL AND REVISION NOTES

REVISED SECTION	SOURCE (U.S. CODE)	SOURCE (STATUTES AT LARGE)
1072(1)	37:402(a)(1)	.June 7, 1956, ch. 374, Sec. 102(a)(1), (4), 70 Stat. 250.
1072(2)	37:402(a)(4).	

In clause (1), the words "the armed forces" are substituted for the words "the Army, the Navy, the Air Force, the Marine Corps, the Coast Guard" to reflect section 101(4) of this title.

In clause (2), the words "or to a person who died while a member or retired member of a uniformed service" and "lawful" are omitted as surplusage. The word "former" is substituted for the word "retired", since a retired member or a member of the Fleet Reserve or the Fleet Marine Corps Reserve is already included as a "member" of an armed force. Clause (2)(E) combines 37:402(a)(4)(E) and (G).

Prior Provisions

A prior section 1072, act Aug. 10, 1956, ch. 1041, 70A Stat. 81, defined terms used in former sections 1071 to 1086 of this title, prior to repeal by Pub. L. 85-861, Sec. 36B(5), Sept. 2, 1958, 72 Stat. 1570, as superseded by the Federal Voting Assistance Act of 1955 which is classified to subchapter I-D (Sec. 1973cc et seq.) of chapter 20 of Title 42, The Public Health and Welfare.

Amendments

2008—Par. (10). Pub. L. 110-181 added par. (10).

2006—Par. (2)(I)(i). Pub. L. 109-163, Sec. 1057(a)(2), struck out "or a Territory" before "or possession". Par. (6)(D)(i). Pub. L. 109-163, Sec. 592(b), inserted ", or by any other source authorized by State or local law to provide adoption placement," after "(recognized by the Secretary of Defense)".

2001—Pars. (8), (9). Pub. L. 107-107 added pars. (8) and (9).

1997—Par. (7). Pub. L. 105-85 added par. (7).

1994—Par. (2)(D). Pub. L. 103-337, Sec. 701(a)(1), substituted "a child who" for "an unmarried legitimate child, including an adopted child or stepchild, who" in introductory provisions. Par. (6). Pub. L. 103-337, Sec. 701(a)(2), added par. (6).

1993—Par. (2)(I). Pub. L. 103-160 added subpar. (I).

1992—Par. (2)(D). Pub. L. 102-484 added subpar. (D) and struck out former subpar. (D) which read as follows: "an unmarried legitimate child, including an adopted child or a stepchild, who either—

"(i) has not passed his twenty-first birthday;

"(ii) is incapable of self-support because of a mental or physical incapacity that existed before that birthday and is, or was at the time of the member's or former member's death, in fact dependent on him for over one-half of his support; or

"(iii) has not passed his twenty-third birthday, is enrolled in a full-time course of study in an institution of higher learning approved by the administering Secretary and is, or was at the time of the member's or former member's death, in fact dependent on him for over one-half of his support;".

1989—Par. (2)(H). Pub. L. 101-189 added subpar. (H).

1986—Par. (1). Pub. L. 99-661, Sec. 701(b)(1), substituted "The term 'uniformed services' means" for "'Uniformed services' means".
Par. (2). Pub. L. 99-661, Sec. 701(b)(2), substituted "The term 'dependent', with respect to" for "'Dependent', with respect to".
Par. (3). Pub. L. 99-661, Sec. 701(b)(3), substituted "The term 'administering Secretaries' means" for "'Administering Secretaries' means".
Pars. (4), (5). Pub. L. 99-661, Sec. 701(b)(4), added pars. (4) and (5).

1984—Par. (2)(D)(iii). Pub. L. 98-557, Sec. 19(1)(A), substituted reference to the administering Secretary for reference to the Secretary of Defense or the Secretary of Health and Human Services.
Par. (2)(G). Pub. L. 98-525 added subpar. (G).
Par. (3). Pub. L. 98-557, Sec. 19(1)(B), added par. (3).

1982—Par. (2)(F). Pub. L. 97-252 added cl. (F).

1980—Pub. L. 96-513, Sec. 511(34)(A), substituted in introductory material reference to this chapter for reference to sections 1071-1087 of this title.
Par. (1). Pub. L. 96-513, Sec. 511(35), substituted "National Oceanic and Atmospheric Administration" for "Environmental Science Services Administration".
Par. (2). Pub. L. 96-513, Secs. 115(b), 511(36), substituted "spouse" for "wife" in cl. (A), struck out cl. (C) "the husband, if he is in fact dependent on the member or former member for over one-half of his support;", redesignated cls. (D), (E), and (F) as (C), (D), and (E), respectively, in cl. (C) as so redesignated, struck out ", if, because of mental or physical incapacity he was in fact dependent on the member or former member at the time of her death for over one-half of his support" after "the unremarried widower", and in cl. (D)(iii) as so redesignated, substituted "Health and Human Services" for "Health, Education, and Welfare".

1966—Pub. L. 89-718 substituted "Environmental Science Services Administration" for "Coast and Geodetic Survey" in clause (1). Pub. L. 89-614 substituted "1087" for "1085" in introductory phrase.

Effective Date Of 1993 Amendment

Section 702(b) of Pub. L. 103-160 provided that: "Section 1072(2)(I) of title 10, United States Code, as added by subsection (a), shall apply with respect to determinations of dependency made on or after July 1, 1994."

TMA Version - March 2009

TMA Version - March 2009

Effective Date Of 1989 Amendment

Section 731(d) of Pub. L. 101-189 provided that:

"(1) The amendments made by this section [enacting section 1086a of this title and amending this section and sections 1076 and 1086 of this title] apply to a person referred to in section 1072(2)(H) of title 10, United States Code (as added by subsection (a)), whose decree of divorce, dissolution, or annulment becomes final on or after the date of the enactment of this Act [Nov. 29, 1989].

"(2) The amendments made by this section shall also apply to a person referred to in such section whose decree of divorce, dissolution, or annulment became final during the period beginning on September 29, 1988, and ending on the day before the date of the enactment of this Act, as if the amendments had become effective on September 29, 1988."

Effective Date Of 1984 Amendment

Section 645(d) of Pub. L. 98-525 provided that: "The amendments made by subsections (a), (b), and (c) [amending this section and provisions set out as a note under section 1408 of this title and enacting provisions set out as a note under this section] shall be effective on January 1, 1985, and shall apply with respect to health care furnished on or after that date."

Effective Date Of 1982 Amendment; Transition Provisions

Amendment by Pub. L. 97-252 effective Feb. 1, 1983, and applicable in the case of any former spouse of a member or former member of the uniformed services whether final decree of divorce, dissolution, or annulment of marriage of former spouse and such member or former member is dated before, on, or after Feb. 1, 1983, see section 1006 of Pub. L. 97-252, set out as an Effective Date; Transition Provisions note under section 1408 of this title.

Effective Date Of 1980 Amendment

Amendment by section 115(b) of Pub. L. 96-513 effective Sept. 15, 1981, but the authority to prescribe regulations under the amendment by Pub. L. 96-513 effective on Dec. 12, 1980, and amendment by section 511(34)(A), (35), (36) of Pub. L. 96-513 effective Dec. 12, 1980, see section 701 of Pub. L. 96-513, set out as a note under section 101 of this title.

Effective Date Of 1966 Amendment

For effective date of amendment by Pub. L. 89-614, see section 3 of Pub. L. 89-614, set out as a note under section 1071 of this title.

Repeals

The directory language of, but not the amendment made by, Pub. L. 89-718, Sec. 8(a), Nov. 2, 1966, 80 Stat. 1117, cited as a credit to this section, was repealed by Pub. L. 97-295, Sec. 6(b), Oct. 12, 1982, 96 Stat. 1314.

Continuation Of Individual Case Management Services For Certain Eligible Beneficiaries

Pub. L. 107-107, div. A, title VII, Sec. 701(d), Dec. 28, 2001, 115 Stat. 1160, provided that:

"(1) Notwithstanding the termination of the Individual Case Management Program by subsection (g) [amending section 1079 of this title and repealing provisions set out as a note under section 1077 of this title], the Secretary of Defense shall, in any case in which the Secretary makes the determination described in paragraph (2), continue to provide payment as if such program were in effect for home health care or custodial care services provided to an eligible beneficiary that would otherwise be excluded from coverage under regulations implementing chapter 55 of title 10, United States Code.

"(2) The determination referred to in paragraph (1) is a determination that discontinuation of payment for services not otherwise provided under such chapter would result in the provision of services inadequate to meet the needs of the eligible beneficiary and would be unjust to such beneficiary.

"(3) For purposes of this subsection, 'eligible beneficiary' means a covered beneficiary (as that term is defined in section 1072 of title 10, United States Code) who, before the effective date of this section [Dec. 28, 2001], was provided custodial care services under the Individual Case Management Program for which the Secretary provided payment."

Improvements In Administration Of The TRICARE Program; Flexibility Of Contracting

Pub. L. 107-107, div. A, title VII, Sec. 708(a), Dec. 28, 2001, 115 Stat. 1164, provided that:

"(1) During the one-year period following the date of the enactment of this Act [Dec. 28, 2001], section 1072(7) of title 10, United States Code, shall be deemed to be amended by striking 'the competitive selection of contractors to financially underwrite'.

"(2) The terms and conditions of any contract to provide health care services under the TRICARE program entered into during the period described in paragraph (1) shall not be considered to be modified or terminated as a result of the termination of such period."

Transitional Provisions For Qualification For Conversion Health Policies; Preexisting Conditions

Section 731(e) of Pub. L. 101-189 provided that:

"(1) In the case of a person who qualified as a dependent under section 645(c) of the Department of Defense Authorization Act, 1985 (Public Law 98-525; 98 Stat. 2549) [set out below], on September 28, 1988, the Secretary of Defense shall make a conversion health policy available for purchase by the person during the remaining period the person is considered to be a dependent under that section (or within a reasonable time after that period as prescribed by the Secretary of Defense).

"(2) Purchase of a conversion health policy under paragraph (1) by a person shall entitle the person to health care for preexisting conditions in the same manner and to the same extent as provided by section 1086a(b) of title 10, United States Code (as added by subsection (b)), until the end of the one-year period beginning on the later of—

"(A) the date the person is no longer qualified as a dependent under section 645(c) of the Department of Defense Authorization Act, 1985; and

"(B) the date of the purchase of the policy.

"(3) For purposes of this subsection, the term 'conversion health policy' has the meaning given that term in section 1086a(c) of title 10, United States Code (as added by subsection (b))."

Dependent; Qualification As; Effective Date

Section 645(c) of Pub. L. 98-525, as amended by Pub. L. 99-661, div. A, title VI, Sec. 646, Nov. 14, 1986, 100 Stat. 3887; Pub. L. 100-271, Sec. 1, Mar. 29, 1988, 102 Stat. 45; Pub. L. 100-271, Sec. 1, Mar. 29, 1988, 102 Stat. 45, provided that a person who would qualify as a dependent under section 1072(2)(G) of title 10 but for the fact that the person's final decree of divorce, dissolution, or annulment was dated on or after Apr. 1, 1985, would be considered to be a dependent under such section until the later of (1) Dec. 31, 1988, and (2) the last day of the two-year period beginning on the date of such final decree, prior to repeal by Pub. L. 100-456, div. A, title VI, Sec. 651(b), Sept. 29, 1988, 102 Stat. 1990, effective Sept. 29, 1988, or 30 days after the Secretary of Defense first makes available a conversion health policy (as defined in section 1076(f) of title 10), whichever is later.

TMA Version - March 2009

§ 1073. Administration of this chapter

(a) Responsible Officials.—Except as otherwise provided in this chapter, the Secretary of Defense shall administer this chapter for the armed forces under his jurisdiction, the Secretary of Homeland Security shall administer this chapter for the Coast Guard when the Coast Guard is not operating as a service in the Navy, and the Secretary of Health and Human Services shall administer this chapter for the National Oceanic and Atmospheric Administration and the Public Health Service. This chapter shall be administered consistent with the Assisted Suicide Funding Restriction Act of 1997 (42 U.S.C. 14401 et seq.).

(b) Stability in Program of Benefits.—The Secretary of Defense shall, to the maximum extent practicable, provide a stable program of benefits under this chapter throughout each fiscal year. To achieve the stability in the case of managed care support contracts entered into under this chapter, the contracts shall be administered so as to implement all changes in benefits and administration on a quarterly basis. However, the Secretary of Defense may implement any such change prior to the next fiscal quarter if the Secretary determines that the change would significantly improve the provision of care to eligible beneficiaries under this chapter.

NOTES

Source

(Added Pub. L. 85-861, Sec. 1(25)(B), Sept. 2, 1958, 72 Stat. 1446; amended Pub. L. 89-614, Sec. 2(1), Sept. 30, 1966, 80 Stat. 862; Pub. L. 89-718, Sec. 8(a), Nov. 2, 1966, 80 Stat. 1117; Pub. L. 96-513, title V, Sec. 511(34)(A), (C), (35), (36), Dec. 12, 1980, 94 Stat. 2922, 2923; Pub. L. 98-557, Sec. 19(2), Oct. 30, 1984, 98 Stat. 2869; Pub. L. 105-12, Sec. 9(h), Apr. 30, 1997, 111 Stat. 27; Pub. L. 106-65, div. A, title VII, Sec. 725, title X, Sec. 1066(a)(7), Oct. 5, 1999, 113 Stat. 698, 770; Pub. L. 107-296, title XVII, Sec. 1704(b)(1), Nov. 25, 2002, 116 Stat. 2314.)

HISTORICAL AND REVISION NOTES

REVISED SECTION	SOURCE (U.S. CODE)	SOURCE (STATUTES AT LARGE)
1073	37:402(b).	June 7, 1956, ch. 374, Sec. 102(b), 70 Stat. 251.

The words "armed forces under his jurisdiction" are substituted for the words "Army, Navy, Air Force, and Marine Corps and for the Coast Guard when it is operating as a service in the Navy" to reflect section 101(4) of this title.

References In Text

The Assisted Suicide Funding Restriction Act of 1997, referred to in subsec. (a), is Pub. L. 105-12, Apr. 30, 1997, 111 Stat. 23, which is classified principally to chapter 138 (Sec. 14401 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 14401 of Title 42 and Tables.

TMA Version - March 2009

TMA Version - March 2009

Prior Provisions
A prior section 1073, act Aug. 10, 1956, ch. 1041, 70A Stat. 82, related to right to vote in war-time presidential and congressional election, prior to repeal by Pub. L. 85-861, Sec. 36B(5), Sept. 2, 1958, 72 Stat. 1570, as superseded by the Federal Voting Assistance Act of 1955 which is classified to subchapter I-D (Sec. 1973cc et seq.) of chapter 20 of Title 42, The Public Health and Welfare.

Amendments
2002—Subsec. (a). Pub. L. 107-296 substituted "of Homeland Security" for "of Transportation".

1999—Pub. L. 106-65, Sec. 725, designated existing provisions, as amended by Pub. L. 106-65, Sec. 1066(a)(7), as subsec. (a), inserted heading, and added subsec. (b).
Pub. L. 106-65, Sec. 1066(a)(7), inserted "(42 U.S.C. 14401 et seq.)" after "Act of 1997".

1997—Pub. L. 105-12 inserted at end "This chapter shall be administered consistent with the Assisted Suicide Funding Restriction Act of 1997."

1984—Pub. L. 98-557 inserted provisions which transferred authority to administer chapter for the Coast Guard when the Coast Guard is not operating as a service in the Navy from the Secretary of Health and Human Services to the Secretary of Transportation.

1980—Pub. L. 96-513 substituted in section catchline "of this chapter" for "of sections 1071-1087 of this title", and substituted in text "this chapter" for "sections 1071-1087 of this title", "those sections", and "them", "Secretary of Health and Human Services" for "Secretary of Health, Education, and Welfare", and "National Oceanic and Atmospheric Administration" for "Environmental Science Services Administration".

1966—Pub. L. 89-718 substituted "Environmental Science Services Administration" for "Coast and Geodetic Survey".
Pub. L. 89-614 substituted "1087" for "1085" in section catchline and text.

Effective Date Of 2002 Amendment
Amendment by Pub. L. 107-296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107-296, set out as a note under section 101 of this title.

Effective Date Of 1997 Amendment
Amendment by Pub. L. 105-12 effective Apr. 30, 1997, and applicable to Federal payments made pursuant to obligations incurred after Apr. 30, 1997, for items and services provided on or after such date, subject to also being applicable with respect to contracts entered into, renewed, or extended after Apr. 30, 1997, as well as contracts entered into before Apr. 30, 1997, to the extent permitted under such contracts, see section 11 of Pub. L. 105-12, set out as an Effective Date note under section 14401 of Title 42, The Public Health and Welfare.

Effective Date Of 1980 Amendment
Amendment by Pub. L. 96-513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96-513, set out as a note under section 101 of this title.

Effective Date Of 1966 Amendment
For effective date of amendment by Pub. L. 89-614, see section 3 of Pub. L. 89-614, set out as a note under section 1071 of this title.

Repeals

The directory language of, but not the amendment made by, Pub. L. 89-718, Sec. 8(a), Nov. 2, 1966, 80 Stat. 1117, cited as a credit to this section, was repealed by Pub. L. 97-295, Sec. 6(b), Oct. 12, 1982, 96 Stat. 1314.

Cooperative Health Care Agreements Between Military Installations And Non-Military Health Care Systems

Pub. L. 111-84, div. A, title VII, Sec. 713, Oct. 28, 2009, 123 Stat. 2380, provided that:

"(a) Authority.—The Secretary of Defense may establish cooperative health care agreements between military installations and local or regional health care systems.

"(b) Requirements.—In establishing an agreement under subsection (a), the Secretary shall—

(1) consult with—

(A) the Secretary of the military department concerned;

(B) representatives from the military installation selected for the agreement, including the TRICARE managed care support contractor with responsibility for such installation; and

(C) Federal, State, and local government officials;

(2) identify and analyze health care services available in the area in which the military installation is located, including such services available at a military medical treatment facility or in the private sector (or a combination thereof);

(3) determine the cost avoidance or savings resulting from innovative partnerships between the Department of Defense and the private sector; and

(4) determine the opportunities for and barriers to coordinating and leveraging the use of existing health care resources, including such resources of Federal, State, local, and private entities.

"(c) Annual Reports.—Not later than December 31 of each year an agreement entered into under this section is in effect, the Secretary shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on each such agreement. Each report shall include, at a minimum, the following:

(1) A description of the agreement.

(2) Any cost avoidance, savings, or increases as a result of the agreement.

(3) A recommendation for continuing or ending the agreement.

"(d) Rule of Construction.—Nothing in this section shall be construed as authorizing the provision of health care services at military medical treatment facilities or other facilities of the Department of Defense to individuals who are not otherwise entitled or eligible for such services under chapter 55 of title 10, United States Code."

Inpatient Mental Health Service

Pub. L. 110-329, div. C, title VIII, Sec. 8095, Sept. 30, 2008, 122 Stat. 3642, provided that: "None of the funds appropriated by this Act [div. C of Pub. L. 110-329, see Tables for classification], and hereafter, available for the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) or TRICARE shall be available for the reimbursement of any health care provider for inpatient mental health service for care received when a patient is referred to a provider of inpatient mental health care or residential treatment care by a medical or health care professional having an economic interest in the facility to which the patient is referred: Provided, That this limitation does not apply in the case of inpatient mental health services provided under the program for persons with disabilities under subsection (d) of section 1079 of title 10, United States Code, provided as partial hospital care, or provided pursuant to a waiver authorized by the Secretary of Defense because of medical or psychological circumstances of the patient that are confirmed by a health professional

TMA Version - March 2009

TMA Version - March 2009

who is not a Federal employee after a review, pursuant to rules prescribed by the Secretary, which takes into account the appropriate level of care for the patient, the intensity of services required by the patient, and the availability of that care."

Surveys On Continued Viability Of TRICARE Standard And TRICARE Extra

Pub. L. 110-181, div. A, title VII, Sec. 711, Jan. 28, 2008, 122 Stat. 190, provided that:

"(a) Requirement for Surveys.—

(1) In general.—The Secretary of Defense shall conduct surveys of health care providers and beneficiaries who use TRICARE in the United States to determine, utilizing a reconciliation of the responses of providers and beneficiaries to such surveys, each of the following:

(A) How many health care providers in TRICARE Prime service areas selected under paragraph (3)(A) are accepting new patients under each of TRICARE Standard and TRICARE Extra.

(B) How many health care providers in geographic areas in which TRICARE Prime is not offered are accepting patients under each of TRICARE Standard and TRICARE Extra.

(C) The availability of mental health care providers in TRICARE Prime service areas selected under paragraph (3)(C) and in geographic areas in which TRICARE Prime is not offered.

(2) Benchmarks.—The Secretary shall establish for purposes of the surveys required by paragraph (1) benchmarks for primary care and specialty care providers, including mental health care providers, to be utilized to determine the adequacy of the availability of health care providers to beneficiaries eligible for TRICARE.

(3) Scope of surveys.—The Secretary shall carry out the surveys required by paragraph (1) as follows:

(A) In the case of the surveys required by subparagraph (A) of that paragraph, in at least 20 TRICARE Prime service areas in the United States in each of fiscal years 2008 through 2011.

(B) In the case of the surveys required by subparagraph (B) of that paragraph, in 20 geographic areas in which TRICARE Prime is not offered and in which significant numbers of beneficiaries who are members of the Selected Reserve reside.

(C) In the case of the surveys required by subparagraph (C) of that paragraph, in at least 40 geographic areas.

(4) Priority for surveys.—In prioritizing the areas which are to be surveyed under paragraph (1), the Secretary shall—

(A) consult with representatives of TRICARE beneficiaries and health care and mental health care providers to identify locations where TRICARE Standard beneficiaries are experiencing significant levels of access-to-care problems under TRICARE Standard or TRICARE Extra;

(B) give a high priority to surveying health care and mental health care providers in such areas; and

(C) give a high priority to surveying beneficiaries and providers located in geographic areas with high concentrations of members of the Selected Reserve.

(5) Information from providers.—The surveys required by paragraph (1) shall include questions seeking to determine from health care and mental health care providers the following:

(A) Whether the provider is aware of the TRICARE program.

(B) What percentage of the provider's current patient population uses any form of TRICARE.

(C) Whether the provider accepts patients for whom payment is made under the medicare program for health care and mental health care services.

(D) If the provider accepts patients referred to in subparagraph (C), whether the provider would accept additional such patients who are not in the provider's current patient population.

(6) Information from beneficiaries.—The surveys required by paragraph (1) shall include questions seeking information to determine from TRICARE beneficiaries whether they have difficulties in finding health care and mental health care providers willing to provide services under TRICARE Standard or TRICARE Extra.

"(b) GAO Review.—

(1) Ongoing review.—The Comptroller General shall, on an ongoing basis, review—

(A) the processes, procedures, and analysis used by the Department of Defense to determine the adequacy of the number of health care and mental health care providers—

(i) that currently accept TRICARE Standard or TRICARE Extra beneficiaries as patients under TRICARE Standard in each TRICARE area as of the date of completion of the review; and

(ii) that would accept TRICARE Standard or TRICARE Extra beneficiaries as new patients under TRICARE Standard or TRICARE Extra, as applicable, within a reasonable time after the date of completion of the review; and

(B) the actions taken by the Department of Defense to ensure ready access of TRICARE Standard beneficiaries to health care and mental health care under TRICARE Standard in each TRICARE area, including any pending or resolved requests for waiver of payment limits in order to improve access to health care or mental health care in a specific geographic area.

(2) Reports.—The Comptroller General shall submit to the Committees on Armed Services of the Senate and the House of Representatives on a bi-annual basis a report on the results of the review under paragraph (1). Each report shall include the following:

(A) An analysis of the adequacy of the surveys under subsection (a).

(B) An identification of any impediments to achieving adequacy of availability of health care and mental health care under TRICARE Standard or TRICARE Extra.

(C) An assessment of the adequacy of Department of Defense education programs to inform health care and mental health care providers about TRICARE Standard and TRICARE Extra.

(D) An assessment of the adequacy of Department of Defense initiatives to encourage health care and mental health care providers to accept patients under TRICARE Standard and TRICARE Extra.

(E) An assessment of the adequacy of information available to TRICARE Standard beneficiaries to facilitate access by such beneficiaries to health care and mental health care under TRICARE Standard and TRICARE Extra.

(F) An assessment of any need for adjustment of health care and mental health care provider payment rates to attract participation in TRICARE Standard by appropriate numbers of health care and mental health care providers.

(G) An assessment of the adequacy of Department of Defense programs to inform members of the Selected Reserve about the TRICARE Reserve Select program.

(H) An assessment of the ability of TRICARE Reserve Select beneficiaries to receive care in their geographic area.

"(c) Effective Date.—This section shall take effect on October 1, 2007.

"(d) Repeal of Superseded Requirements and Authority.—Section 723 of the National Defense Authorization Act for Fiscal Year 2004 (10 U.S.C. 1073 note) is repealed, effective as of October 1, 2007.

TMA Version - March 2009

TMA Version - March 2009

"(e) Definitions.—In this section:

(1) The term 'TRICARE Extra' means the option of the TRICARE program under which TRICARE Standard beneficiaries may obtain discounts on cost-sharing as a result of using TRICARE network providers.

(2) The term 'TRICARE Prime' means the managed care option of the TRICARE program.

(3) The term 'TRICARE Prime service area' means a geographic area designated by the Department of Defense in which managed care support contractors develop a managed care network under TRICARE Prime.

(4) The term 'TRICARE Standard' means the option of the TRICARE program that is also known as the Civilian Health and Medical Program of the Uniformed Services, as defined in section 1072(4) of title 10, United States Code.

(5) The term 'TRICARE Reserve Select' means the option of the TRICARE program that allows members of the Selected Reserve to enroll in TRICARE Standard, pursuant to section 1076d of title 10, United States Code.

(6) The term 'member of the Selected Reserve' means a member of the Selected Reserve of the Ready Reserve of a reserve component of the Armed Forces.

(7) The term 'United States' means the United States (as defined in section 101(a) of title 10, United States Code), its possessions (as defined in such section), and the Commonwealth of Puerto Rico."

Regulations To Establish Criteria For Licensed Or Certified Mental Health Counselors Under TRICARE

Pub. L. 110-181, div. A, title VII, Sec. 717(a), Jan. 28, 2008, 122 Stat. 196, provided that: "The Secretary of Defense shall prescribe regulations to establish criteria that licensed or certified mental health counselors shall meet in order to be able to independently provide care to TRICARE beneficiaries and receive payment under the TRICARE program for such services. The criteria shall include requirements for education level, licensure, certification, and clinical experience as considered appropriate by the Secretary."

Inspection Of Military Medical Treatment Facilities, Military Quarters Housing Medical Hold Personnel, And Military Quarters Housing Medical Holdover Personnel

Pub. L. 110-28, title III, Sec. 3307, May 25, 2007, 121 Stat. 137, provided that:

"(a) Inspection of Military Medical Treatment Facilities, Military Quarters Housing Medical Hold Personnel, and Military Quarters Housing Medical Holdover Personnel.—

(1) In general.—Not later than 180 days after the date of the enactment of this Act [May 25, 2007], and annually thereafter, the Secretary of Defense shall inspect each facility of the Department of Defense as follows:

(A) Each military medical treatment facility.

(B) Each military quarters housing medical hold personnel.

(C) Each military quarters housing medical holdover personnel.

(2) Purpose.—The purpose of an inspection under this subsection is to ensure that the facility or quarters concerned meets acceptable standards for the maintenance and operation of medical facilities, quarters housing medical hold personnel, or quarters housing medical holdover personnel, as applicable.

"(b) Acceptable Standards.—For purposes of this section, acceptable standards for the operation and maintenance of military medical treatment facilities, military quarters housing

medical hold personnel, or military quarters housing medical holdover personnel are each of the following:

(1) Generally accepted standards for the accreditation of medical facilities, or for facilities used to quarter individuals with medical conditions that may require medical supervision, as applicable, in the United States.

(2) Where appropriate, standards under the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.).

"(c) Additional Inspections on Identified Deficiencies.—

(1) In general.—In the event a deficiency is identified pursuant to subsection (a) at a facility or quarters described in paragraph (1) of that subsection—

(A) the commander of such facility or quarters, as applicable, shall submit to the Secretary a detailed plan to correct the deficiency; and

(B) the Secretary shall reinspect such facility or quarters, as applicable, not less often than once every 180 days until the deficiency is corrected.

(2) Construction with other inspections.—An inspection of a facility or quarters under this subsection is in addition to any inspection of such facility or quarters under subsection (a).

"(d) Reports on Inspections.—A complete copy of the report on each inspection conducted under subsections (a) and (c) shall be submitted in unclassified form to the applicable military medical command and to the congressional defense committees.

"(e) Report on Standards.—In the event no standards for the maintenance and operation of military medical treatment facilities, military quarters housing medical hold personnel, or military quarters housing medical holdover personnel exist as of the date of the enactment of this Act, or such standards as do exist do not meet acceptable standards for the maintenance and operation of such facilities or quarters, as the case may be, the Secretary shall, not later than 30 days after that date, submit to the congressional defense committees a report setting forth the plan of the Secretary to ensure—

(1) the adoption by the Department of standards for the maintenance and operation of military medical facilities, military quarters housing medical hold personnel, or military quarters housing medical holdover personnel, as applicable, that meet—

(A) acceptable standards for the maintenance and operation of such facilities or quarters, as the case may be; and

(B) where appropriate, standards under the Americans with Disabilities Act of 1990; and

(2) the comprehensive implementation of the standards adopted under paragraph (1) at the earliest date practicable."

Requirements For Support Of Military Treatment Facilities By Civilian Contractors Under TRICARE

Pub. L. 109-364, div. A, title VII, Sec. 732, Oct. 17, 2006, 120 Stat. 2296, provided that:

"(a) Annual Integrated Regional Requirements on Support.—The Regional Director of each region under the TRICARE program shall develop each year integrated, comprehensive requirements for the support of military treatment facilities in such region that is provided by contract civilian health care and administrative personnel under the TRICARE program.

"(b) Purposes.—The purposes of the requirements established under subsection (a) shall be as follows:

"(1) To ensure consistent standards of quality in the support of military treatment facilities by contract civilian health care personnel under the TRICARE program.

"(2) To identify targeted, actionable opportunities throughout each region of the TRICARE program for the most efficient and cost effective delivery of health care and support of military treatment facilities.

TMA Version - March 2009

TMA Version - March 2009

"(3) To ensure the most effective use of various available contracting methods in securing support of military treatment facilities by civilian health care personnel under the TRICARE program, including resource-sharing and clinical support agreements, direct contracting, and venture capital investments.

"(c) Facilitation and Enhancement of Contractor Support.—

"(1) In general.—The Secretary of Defense shall take appropriate actions to facilitate and enhance the support of military treatment facilities under the TRICARE program in order to assure maximum quality and productivity.

"(2) Actions.—In taking actions under paragraph (1), the Secretary shall—

"(A) require consistent standards of quality for contract civilian health care personnel providing support of military treatment facilities under the TRICARE program, including—

"(i) consistent credentialing requirements among military treatment facilities;

"(ii) consistent performance standards for private sector companies providing health care staffing services to military treatment facilities and clinics, including, at a minimum, those standards established for accreditation of health care staffing firms by the Joint Commission on the Accreditation of Health Care Organizations Health Care Staffing Standards; and

"(iii) additional standards covering—

"(I) financial stability;

"(II) medical management;

"(III) continuity of operations;

"(IV) training;

"(V) employee retention;

"(VI) access to contractor data; and

"(VII) fraud prevention;

"(B) ensure the availability of adequate and sustainable funding support for projects which produce a return on investment to the military treatment facilities;

"(C) ensure that a portion of any return on investment is returned to the military treatment facility to which such savings are attributable;

"(D) remove financial disincentives for military treatment facilities and civilian contractors to initiate and sustain agreements for the support of military treatment facilities by such contractors under the TRICARE program;

"(E) provide for a consistent methodology across all regions of the TRICARE program for developing cost benefit analyses of agreements for the support of military treatment facilities by civilian contractors under the TRICARE program based on actual cost and utilization data within each region of the TRICARE program; and

"(F) provide for a system for monitoring the performance of significant projects for support of military treatment facilities by a civilian contractor under the TRICARE program.

"(d) Reports to Congress.—

"(1) Annual reports required.—Not later than February 1, 2008, and each year thereafter, the Secretary, in coordination with the military departments, shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the support of military treatment facilities by civilian contractors under the TRICARE program during the preceding fiscal year.

"(2) Elements.—Each report shall set forth, for the fiscal year covered by such report, the following:

"(A) The level of support of military health treatment facilities that is provided by contract civilian health care personnel under the TRICARE program in each region of the TRICARE program.

"(B) An assessment of the compliance of such support with regional requirements under subsection (a).

"(C) The number and type of agreements for the support of military treatment facilities by contract civilian health care personnel.

"(D) The standards of quality in effect under the requirements under subsection (a).

"(E) The savings anticipated, and any savings achieved, as a result of the implementation of the requirements under subsection (a).

"(F) An assessment of the compliance of contracts for health care staffing services for Department of Defense facilities with the requirements of subsection (c)(2)(A).

"(e) Effective Date.—This section shall take effect on October 1, 2006."

TRICARE Standard In TRICARE Regional Offices

Pub. L. 109-163, div. A, title VII, Sec. 716, Jan. 6, 2006, 119 Stat. 3345, provided that:

"(a) Responsibilities of TRICARE Regional Office.—The responsibilities of each TRICARE Regional Office shall include the monitoring, oversight, and improvement of the TRICARE Standard option in the TRICARE region concerned, including—

"(1) identifying health care providers who will participate in the TRICARE program and provide the TRICARE Standard option under that program;

"(2) communicating with beneficiaries who receive the TRICARE Standard option;

"(3) outreach to community health care providers to encourage their participation in the TRICARE program; and

"(4) publication of information that identifies health care providers in the TRICARE region concerned who provide the TRICARE Standard option.

"(b) Annual Report.—The Secretary of Defense shall submit an annual report to the Committees on Armed Services of the Senate and the House of Representatives on the monitoring, oversight, and improvement of TRICARE Standard activities of each TRICARE Regional Office. The report shall include—

"(1) a description of the activities of the TRICARE Regional Office to monitor, oversee, and improve the TRICARE Standard option;

"(2) an assessment of the participation of eligible health care providers in TRICARE Standard in each TRICARE region; and

"(3) a description of any problems or challenges that have been identified by both providers and beneficiaries with respect to use of the TRICARE Standard option and the actions undertaken to address such problems or challenges.

"(c) Definition.—In this section, the term 'TRICARE Standard' or 'TRICARE standard option' means the Civilian Health and Medical Program of the Uniformed Services option under the TRICARE program."

Qualifications For Individuals Serving As TRICARE Regional Directors

Pub. L. 109-163, div. A, title VII, Sec. 717, Jan. 6, 2006, 119 Stat. 3345, provided that:

"(a) Qualifications.—Effective as of the date of the enactment of this Act [Jan. 6, 2006], no individual may be selected to serve in the position of Regional Director under the TRICARE program unless the individual—

"(1) is—

"(A) an officer of the Armed Forces in a general or flag officer grade;

TMA Version - March 2009

TMA Version - March 2009

"(B) a civilian employee of the Department of Defense in the Senior Executive Service; or

"(C) a civilian employee of the Federal Government in a department or agency other than the Department of Defense, or a civilian working in the private sector, who has experience in a position comparable to an officer described in subparagraph (A) or a civilian employee described in subparagraph (B); and

"(2) has at least 10 years of experience, or equivalent expertise or training, in the military health care system, managed care, and health care policy and administration.

"(b) Tricare Program Defined.—In this section, the term 'TRICARE program' has the meaning given such term in section 1072(7) of title 10, United States Code."

Pilot Projects On Pediatric Early Literacy Among Children Of Members Of The Armed Forces

Pub. L. 109-163, div. A, title VII, Sec. 740, Jan. 6, 2006, 119 Stat. 3359, as amended by Pub. L. 109-364, div. A, title X, Sec. 1071(e)(8), Oct. 17, 2006, 120 Stat. 2402, provided that:

"(a) Pilot Projects Authorized.—The Secretary of Defense may conduct pilot projects to assess the feasibility, advisability, and utility of encouraging pediatric early literacy among the children of members of the Armed Forces.

"(b) Locations.—

"(1) In general.—The pilot projects conducted under subsection (a) shall be conducted at not more than 20 military medical treatment facilities designated by the Secretary for purposes of this section.

"(2) Co-location with certain installations.—In designating military medical treatment facilities under paragraph (1), the Secretary shall, to the extent practicable, designate facilities that are located on, or co-located with, military installations at which the mobilization or demobilization of members of the Armed Forces occurs.

"(c) Activities.—Activities under the pilot projects conducted under subsection (a) shall include the following:

"(1) The provision of training to health care providers and other appropriate personnel on early literacy promotion.

"(2) The purchase and distribution of children's books to members of the Armed Forces, their spouses, and their children.

"(3) The modification of treatment facility and clinic waiting rooms to include a full selection of literature for children.

"(4) The dissemination to members of the Armed Forces and their spouses of parent education materials on pediatric early literacy.

"(5) Such other activities as the Secretary considers appropriate.

"(d) Report.—

"(1) In general.—Not later than March 1, 2007, the Secretary shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the pilot projects conducted under this section.

"(2) Elements.—The report under paragraph (1) shall include—

"(A) a description of the pilot projects conducted under this section, including the location of each pilot project and the activities conducted under each pilot project; and

"(B) an assessment of the feasibility, advisability, and utility of encouraging pediatric early literacy among the children of members of the Armed Forces."

Surveys On Continued Viability Of TRICARE Standard

Pub. L. 108-136, div. A, title VII, Sec. 723, Nov. 24, 2003, 117 Stat. 1532, as amended by Pub. L. 109-163, div. A, title VII, Sec. 711, Jan. 6, 2006, 119 Stat. 3343, required the Secretary of Defense to conduct surveys in the TRICARE market areas in the United States to determine how many health

care providers were accepting new patients under TRICARE Standard in each such market area, and required the Comptroller General to review the processes, procedures, and analysis used by the Department of Defense to determine the adequacy of the number of health care providers and the actions taken by the Department of Defense to ensure ready access of TRICARE Standard beneficiaries to health care under TRICARE Standard in each TRICARE market area, prior to repeal by Pub. L. 110-181, div. A, title VII, Sec. 711(d), Jan. 28, 2008, 122 Stat. 193, eff. Oct. 1, 2007.

Modernization Of TRICARE Business Practices And Increase Of Use Of Military Treatment Facilities

Pub. L. 106-398, Sec. 1 [[div. A], title VII, Sec. 723], Oct. 30, 2000, 114 Stat. 1654, 1654A-186, provided that:

"(a) Requirement To Implement Internet-Based System.—Not later than October 1, 2001, the Secretary of Defense shall implement a system to simplify and make accessible through the use of the Internet, through commercially available systems and products, critical administrative processes within the military health care system and the TRICARE program. The purposes of the system shall be to enhance efficiency, improve service, and achieve commercially recognized standards of performance.

"(b) Elements of System.—The system required by subsection (a)—

"(1) shall comply with patient confidentiality and security requirements, and incorporate data requirements, that are currently widely used by insurers under medicare and commercial insurers;

"(2) shall be designed to achieve improvements with respect to—

"(A) the availability and scheduling of appointments;

"(B) the filing, processing, and payment of claims;

"(C) marketing and information initiatives;

"(D) the continuation of enrollments without expiration;

"(E) the portability of enrollments nationwide;

"(F) education of beneficiaries regarding the military health care system and the TRICARE program; and

"(G) education of health care providers regarding such system and program; and

"(3) may be implemented through a contractor under TRICARE Prime.

"(c) Areas of Implementation.—The Secretary shall implement the system required by subsection (a) in at least one region under the TRICARE program.

"(d) Plan for Improved Portability of Benefits.—Not later than March 15, 2001, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a plan to provide portability and reciprocity of benefits for all enrollees under the TRICARE program throughout all TRICARE regions.

"(e) Increase of Use of Military Medical Treatment Facilities.—The Secretary shall initiate a program to maximize the use of military medical treatment facilities by improving the efficiency of health care operations in such facilities.

"(f) Definition.—In this section the term 'TRICARE program' has the meaning given such term in section 1072 of title 10, United States Code."

Improvement Of Access To Health Care Under The TRICARE Program

Pub. L. 107-107, div. A, title VII, Sec. 735(e), Dec. 28, 2001, 115 Stat. 1172, directed the Secretary of Defense to submit to committees of Congress, not later than Mar. 1, 2002, a report on the Secretary's plans for implementing Pub. L. 106-398, Sec. 1 [[div. A], title VII, Sec. 721], as amended, set out below.

TMA Version - March 2009

TMA Version - March 2009

Pub. L. 106-398, Sec. 1 [[div. A], title VII, Sec. 721], Oct. 30, 2000, 114 Stat. 1654, 1654A-184, as amended by Pub. L. 107-107, div. A, title VII, Sec. 735(a)-(d), Dec. 28, 2001, 115 Stat. 1171, 1172, provided that:

"(a) Waiver of Nonavailability Statement or Preauthorization.—In the case of a covered beneficiary under TRICARE Standard pursuant to chapter 55 of title 10, United States Code, the Secretary of Defense may not require with regard to authorized health care services (other than mental health services) under such chapter that the beneficiary—

"(1) obtain a nonavailability statement or preauthorization from a military medical treatment facility in order to receive the services from a civilian provider; or

"(2) obtain a nonavailability statement for care in specialized treatment facilities outside the 200-mile radius of a military medical treatment facility.

"(b) Waiver Authority.—The Secretary may waive the prohibition in subsection (a) if—

"(1) the Secretary—

"(A) demonstrates that significant costs would be avoided by performing specific procedures at the affected military medical treatment facility or facilities;

"(B) determines that a specific procedure must be provided at the affected military medical treatment facility or facilities to ensure the proficiency levels of the practitioners at the facility or facilities; or

"(C) determines that the lack of nonavailability statement data would significantly interfere with TRICARE contract administration;

"(2) the Secretary provides notification of the Secretary's intent to grant a waiver under this subsection to covered beneficiaries who receive care at the military medical treatment facility or facilities that will be affected by the decision to grant a waiver under this subsection;

"(3) the Secretary notifies the Committees on Armed Services of the House of Representatives and the Senate of the Secretary's intent to grant a waiver under this subsection, the reason for the waiver, and the date that a nonavailability statement will be required; and

"(4) 60 days have elapsed since the date of the notification described in paragraph (3).

"(c) Waiver Exception for Maternity Care.—Subsection (b) shall not apply with respect to maternity care.

"(d) Effective Date.—This section shall take effect on the earlier of the following:

"(1) The date that a new contract entered into by the Secretary to provide health care services under TRICARE Standard takes effect.

"(2) The date that is two years after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2002 [Dec. 28, 2001]."

Pub. L. 106-65, div. A, title VII, Sec. 712(a), (b), Oct. 5, 1999, 113 Stat. 687, provided that:

"(a) Access.—The Secretary of Defense shall, to the maximum extent practicable, minimize the authorization and certification requirements imposed on covered beneficiaries under the TRICARE program as a condition of access to benefits under that program.

"(b) Report on Initiatives To Improve Access.—Not later than March 31, 2000, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on specific actions taken to—

"(1) reduce the requirements for preauthorization for care under the TRICARE program;

"(2) reduce the requirements for beneficiaries to obtain preventive services, such as obstetric or gynecologic examinations, mammograms for females over 35 years of age, and urological examinations for males over the age of 60 without preauthorization; and

"(3) reduce the requirements for statements of nonavailability of services."

TRICARE Managed Care Support Contracts

Pub. L. 106-398, Sec. 1 [[div. A], title VII, Sec. 724], Oct. 30, 2000, 114 Stat. 1654, 1654A-187, provided that:

"(a) Authority.—Notwithstanding any other provision of law and subject to subsection (b), any TRICARE managed care support contract in effect, or in the final stages of acquisition, on September 30, 1999, may be extended for four years.

"(b) Conditions.—Any extension of a contract under subsection (a)—

"(1) may be made only if the Secretary of Defense determines that it is in the best interest of the United States to do so; and

"(2) shall be based on the price in the final best and final offer for the last year of the existing contract as adjusted for inflation and other factors mutually agreed to by the contractor and the Federal Government."

Pub. L. 106-259, title VIII, Sec. 8090, Aug. 9, 2000, 114 Stat. 694, provided that: "Notwithstanding any other provision of law, the TRICARE managed care support contracts in effect, or in final stages of acquisition as of September 30, 2000, may be extended for 2 years: Provided, That any such extension may only take place if the Secretary of Defense determines that it is in the best interest of the Government: Provided further, That any contract extension shall be based on the price in the final best and final offer for the last year of the existing contract as adjusted for inflation and other factors mutually agreed to by the contractor and the Government: Provided further, That notwithstanding any other provision of law, all future TRICARE managed care support contracts replacing contracts in effect, or in the final stages of acquisition as of September 30, 2000, may include a base contract period for transition and up to seven 1-year option periods." Similar provisions were contained in the following prior appropriation act:

Pub. L. 106-79, title VIII, Sec. 8095, Oct. 25, 1999, 113 Stat. 1254.

Pub. L. 105-262, title VIII, Sec. 8107, Oct. 17, 1998, 112 Stat. 2321.

Redesign Of Military Pharmacy System

Pub. L. 105-261, div. A, title VII, Sec. 703, Oct. 17, 1998, 112 Stat. 2057, provided that:

"(a) Plan Required.—The Secretary of Defense shall submit to Congress a plan that would provide for a system-wide redesign of the military and contractor retail and mail-order pharmacy system of the Department of Defense by incorporating 'best business practices' of the private sector. The Secretary shall work with contractors of TRICARE retail pharmacy and national mail-order pharmacy programs to develop a plan for the redesign of the pharmacy system that—

"(1) may include a plan for an incentive-based formulary for military medical treatment facilities and contractors of TRICARE retail pharmacies and the national mail-order pharmacy; and

"(2) shall include a plan for each of the following:

"(A) A uniform formulary for such facilities and contractors.

"(B) A centralized database that integrates the patient databases of pharmacies of military medical treatment facilities and contractor retail and mail-order programs to implement automated prospective drug utilization review systems.

"(C) A system-wide drug benefit for covered beneficiaries under chapter 55 of title 10, United States Code, who are entitled to hospital insurance benefits under part A of title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.).

"(b) Submission of Plan.—The Secretary shall submit the plan required under subsection (a) not later than March 1, 1999.

TMA Version - March 2009

TMA Version - March 2009

"(c) Suspension of Implementation of Program.—The Secretary shall suspend any plan to establish a national retail pharmacy program for the Department of Defense until—

"(1) the plan required under subsection (a) is submitted; and

"(2) the Secretary implements cost-saving reforms with respect to the military and contractor retail and mail order pharmacy system."

Pub. L. 105-261, div. A, title VII, Sec. 723, Oct. 17, 1998, 112 Stat. 2068, as amended by Pub. L. 106-65, div. A, title X, Sec. 1067(3), Oct. 5, 1999, 113 Stat. 774; Pub. L. 106-398, Sec. 1 [[div. A], title VII, Sec. 711(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A-175, provided that:

"(a) In General.—Not later than April 1, 2001, the Secretary of Defense shall implement, with respect to eligible individuals described in subsection (e), the redesign of the pharmacy system under TRICARE (including the mail-order and retail pharmacy benefit under TRICARE) to incorporate 'best business practices' of the private sector in providing pharmaceuticals, as developed under the plan described in section 703 [set out as a note above].

"(b) Program Requirements.—The same coverage for pharmacy services and the same requirements for cost sharing and reimbursement as are applicable under section 1086 of title 10, United States Code, shall apply with respect to the program required by subsection (a).

"(c) Evaluation.—The Secretary shall provide for an evaluation of the implementation of the redesign of the pharmacy system under TRICARE under this section by an appropriate person or entity that is independent of the Department of Defense. The evaluation shall include the following:

"(1) An analysis of the costs of the implementation of the redesign of the pharmacy system under TRICARE and to the eligible individuals who participate in the system.

"(2) An assessment of the extent to which the implementation of such system satisfies the requirements of the eligible individuals for the health care services available under TRICARE.

"(3) An assessment of the effect, if any, of the implementation of the system on military medical readiness.

"(4) A description of the rate of the participation in the system of the individuals who were eligible to participate.

"(5) An evaluation of any other matters that the Secretary considers appropriate.

"(d) Reports.—The Secretary shall submit two reports on the results of the evaluation under subsection (c), together with the evaluation, to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives. The first report shall be submitted not later than December 31, 2001, and the second report shall be submitted not later than December 31, 2003.

"(e) Eligible Individuals.—(1) An individual is eligible to participate under this section if the individual is a member or former member of the uniformed services described in section 1074(b) of title 10, United States Code, a dependent of the member described in section 1076(a)(2)(B) or 1076(b) of that title, or a dependent of a member of the uniformed services who died while on active duty for a period of more than 30 days, who—

"(A) is 65 years of age or older;

"(B) is entitled to hospital insurance benefits under part A of title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.); and

"(C) except as provided in paragraph (2), is enrolled in the supplemental medical insurance program under part B of such title XVIII (42 U.S.C. 1395j et seq.).

"(2) Paragraph (1)(C) shall not apply in the case of an individual who, before April 1, 2001, has attained the age of 65 and did not enroll in the program described in such paragraph."

System For Tracking Data And Measuring Performance In Meeting TRICARE Access Standards

Pub. L. 105-261, div. A, title VII, Sec. 713, Oct. 17, 1998, 112 Stat. 2060, provided that:

"(a) Requirement To Establish System.—(1) The Secretary of Defense shall establish a system—

"(A) to track data regarding access of covered beneficiaries under chapter 55 of title 10, United States Code, to primary health care under the TRICARE program; and

"(B) to measure performance in increasing such access against the primary care access standards established by the Secretary under the TRICARE program.

"(2) In implementing the system described in paragraph (1), the Secretary shall collect data on the timeliness of appointments and precise waiting times for appointments in order to measure performance in meeting the primary care access standards established under the TRICARE program.

"(b) Deadline for Establishment.—The Secretary shall establish the system described in subsection (a) not later than April 1, 1999."

TRICARE As Supplement To Medicare Demonstration

Pub. L. 105-261, div. A, title VII, Sec. 722, Oct. 17, 1998, 112 Stat. 2065, as amended by Pub. L. 106-65, div. A, title X, Secs. 1066(b)(6), 1067(3), Oct. 5, 1999, 113 Stat. 773, 774, required the Secretary of Defense to carry out a demonstration project (known as the TRICARE Senior Supplement) in order to assess the feasibility and advisability of providing medical care coverage under the TRICARE program to certain members and former members of the uniformed services and their dependents and further required the Secretary to evaluate and terminate the project and submit a report on the evaluation to Congress not later than Dec. 31, 2002.

Study Concerning Provision Of Comparative Information

Pub. L. 105-85, div. A, title VII, Sec. 703, Nov. 18, 1997, 111 Stat. 1807, provided that:

"(a) Study.—The Secretary of Defense shall conduct a study concerning the provision of the information described in subsection (b) to beneficiaries under the TRICARE program established under the authority of chapter 55 of title 10, United States Code, and prepare and submit to Congress a report concerning such study.

"(b) Provision of Comparative Information.—Information described in this subsection, with respect to a managed care entity that contracts with the Secretary of Defense to provide medical assistance under the program described in subsection (a), shall include the following:

"(1) The benefits covered by the entity involved, including—

"(A) covered items and services beyond those provided under a traditional fee-for-service program;

"(B) any beneficiary cost sharing; and

"(C) any maximum limitations on out-of-pocket expenses.

"(2) The net monthly premium, if any, under the entity.

"(3) The service area of the entity.

"(4) To the extent available, quality and performance indicators for the benefits under the entity (and how they compare to such indicators under the traditional fee-for-service programs in the area involved), including—

"(A) disenrollment rates for enrollees electing to receive benefits through the entity for the previous two years (excluding disenrollment due to death or moving outside the service area of the entity);

"(B) information on enrollee satisfaction;

"(C) information on health process and outcomes;

"(D) grievance procedures;

"(E) the extent to which an enrollee may select the health care provider of their [sic] choice, including health care providers within the network of the entity and out-of-

TMA Version - March 2009

TMA Version - March 2009

network health care providers (if the entity covers out-of-network items and services); and

"(F) an indication of enrollee exposure to balance billing and the restrictions on coverage of items and services provided to such enrollee by an out-of-network health care provider.

"(5) Whether the entity offers optional supplemental benefits and the terms and conditions (including premiums) for such coverage.

"(6) An overall summary description as to the method of compensation of participating physicians."

Disclosure Of Cautionary Information On Prescription Medications

Pub. L. 105-85, div. A, title VII, Sec. 744, Nov. 18, 1997, 111 Stat. 1820, provided that:

"(a) Regulations Required.—Not later than 180 days after the date of the enactment of this Act [Nov. 18, 1997], the Secretary of Defense, in consultation with the administering Secretaries referred to in section 1073 of title 10, United States Code, shall prescribe regulations to require each source described in subsection (d) that dispenses a prescription medication to a beneficiary under chapter 55 of such title to include with the medication the written cautionary information required by subsection (b).

"(b) Information To Be Disclosed.—Information required to be disclosed about a medication under the regulations shall include appropriate cautions about usage of the medication, including possible side effects and potentially hazardous interactions with foods.

"(c) Form of Information.—The regulations shall require that information be furnished in a form that, to the maximum extent practicable, is easily read and understood.

"(d) Covered Sources.—The regulations shall apply to the following:

"(1) Pharmacies and any other dispensers of prescription medications in medical facilities of the uniformed services.

"(2) Sources of prescription medications under any mail order pharmaceuticals program provided by any of the administering Secretaries under chapter 55 of title 10, United States Code.

"(3) Pharmacies paid under the Civilian Health and Medical Program of the Uniformed Services (including the TRICARE program).

"(4) Pharmacies, and any other pharmaceutical dispensers, of designated providers referred to in section 721(5) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104-201; 110 Stat. 2593; 10 U.S.C. 1073 note)."

Competitive Procurement Of Ophthalmic Services

Pub. L. 105-85, div. A, title VII, Sec. 745, Nov. 18, 1997, 111 Stat. 1820, provided that:

"(a) Competitive Procurement Required.—Beginning not later than October 1, 1998, the Secretary of Defense shall competitively procure from private-sector sources, or other sources outside of the Department of Defense, all ophthalmic services related to the provision of single vision and multivision eyeware [sic] for members of the Armed Forces, retired members, and certain covered beneficiaries under chapter 55 of title 10, United States Code, who would otherwise receive such ophthalmic services through the Department of Defense.

"(b) Exception.—Subsection (a) shall not apply to the extent that the Secretary of Defense determines that the use of sources within the Department of Defense to provide such ophthalmic services—

"(1) is necessary to meet the readiness requirements of the Armed Forces; or

"(2) is more cost effective.

"(c) Completion of Existing Orders.—Subsection (a) shall not apply to orders for ophthalmic services received on or before September 30, 1998."

Inclusion Of Certain Designated Providers In Uniformed Services Health Care Delivery System

Pub. L. 104-201, div. A, title VII, subtitle C, Sept. 23, 1996, 110 Stat. 2592, as amended by Pub. L. 104-208, div. A, title I, Sec. 101(b) [title VIII, Sec. 8131(a)], Sept. 30, 1996, 110 Stat. 3009-71, 3009-117; Pub. L. 105-85, div. A, title VII, Secs. 721-723, Nov. 18, 1997, 111 Stat. 1809, 1810; Pub. L. 106-65, div. A, title VII, Sec. 707, Oct. 5, 1999, 113 Stat. 684; Pub. L. 107-296, title XVII, Sec. 1704(e)(2), Nov. 25, 2002, 116 Stat. 2315; Pub. L. 108-136, div. A, title VII, Sec. 714, Nov. 24, 2003, 117 Stat. 1531; Pub. L. 108-199, div. H, Sec. 109, Jan. 23, 2004, 118 Stat. 438, provided that:

"SEC. 721. DEFINITIONS.

"In this subtitle:

"(1) The term 'administering Secretaries' means the Secretary of Defense, the Secretary of Homeland Security, and the Secretary of Health and Human Services.

"(2) The term 'agreement' means the agreement required under section 722(b) between the Secretary of Defense and a designated provider.

"(3) The term 'capitation payment' means an actuarially sound payment for a defined set of health care services that is established on a per enrollee per month basis.

"(4) The term 'covered beneficiary' means a beneficiary under chapter 55 of title 10, United States Code, other than a beneficiary under section 1074(a) of such title.

"(5) The term 'designated provider' means a public or nonprofit private entity that was a transferee of a Public Health Service hospital or other station under section 987 of the Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35; 42 U.S.C. 248b) and that, before the date of the enactment of this Act [Sept. 23, 1996], was deemed to be a facility of the uniformed services for the purposes of chapter 55 of title 10, United States Code. The term includes any legal successor in interest of the transferee.

"(6) The term 'enrollee' means a covered beneficiary who enrolls with a designated provider.

"(7) The term 'health care services' means the health care services provided under the health plan known as the 'TRICARE PRIME' option under the TRICARE program.

"(8) The term 'Secretary' means the Secretary of Defense.

"(9) The term 'TRICARE program' means the managed health care program that is established by the Secretary of Defense under the authority of chapter 55 of title 10, United States Code, principally section 1097 of such title, and includes the competitive selection of contractors to financially underwrite the delivery of health care services under the Civilian Health and Medical Program of the Uniformed Services.

"SEC. 722. INCLUSION OF DESIGNATED PROVIDERS IN UNIFORMED SERVICES HEALTH CARE DELIVERY SYSTEM.

"(a) Inclusion in System.—The health care delivery system of the uniformed services shall include the designated providers.

"(b) Agreements to Provide Managed Health Care Services.—(1) After consultation with the other administering Secretaries, the Secretary of Defense shall negotiate and enter into an agreement with each designated provider under which the designated provider will provide health care services in or through managed care plans to covered beneficiaries who enroll with the designated provider.

"(2) The agreement shall be entered into on a sole source basis. The Federal Acquisition Regulation, except for those requirements regarding competition, issued pursuant to section 25(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)) shall apply to the agreements as acquisitions of commercial items.

TMA Version - March 2009

TMA Version - March 2009

"(3) The implementation of an agreement is subject to availability of funds for such purpose.

"(c) Effective Date of Agreements.—(1) Unless an earlier effective date is agreed upon by the Secretary and the designated provider, the agreement shall take effect upon the later of the following:

"(A) The date on which a managed care support contract under the TRICARE program is implemented in the service area of the designated provider.

"(B) October 1, 1997.

"(2) The Secretary may modify the effective date established under paragraph (1) for an agreement to permit a transition period of not more than six months between the date on which the agreement is executed by the parties and the date on which the designated provider commences the delivery of health care services under the agreement.

"(d) Temporary Continuation of Existing Participation Agreements.—The Secretary shall extend the participation agreement of a designated provider in effect immediately before the date of the enactment of this Act [Sept. 23, 1996] under section 718(c) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; [former] 42 U.S.C. 248c [note]) until the agreement required by this section takes effect under subsection (c), including any transitional period provided by the Secretary under paragraph (2) of such subsection.

"(e) Service Area.—The Secretary may not reduce the size of the service area of a designated provider below the size of the service area in effect as of September 30, 1996.

"(f) Compliance With Administrative Requirements.—(1) Unless otherwise agreed upon by the Secretary and a designated provider, the designated provider shall comply with necessary and appropriate administrative requirements established by the Secretary for other providers of health care services and requirements established by the Secretary of Health and Human Services for risk-sharing contractors under section 1876 of the Social Security Act (42 U.S.C. 1395mm). The Secretary and the designated provider shall determine and apply only such administrative requirements as are minimally necessary and appropriate. A designated provider shall not be required to comply with a law or regulation of a State government requiring licensure as a health insurer or health maintenance organization.

"(2) A designated provider may not contract out more than five percent of its primary care enrollment without the approval of the Secretary, except in the case of primary care contracts between a designated provider and a primary care contractor in force on the date of the enactment of this Act [Sept. 23, 1996].

"(g) Continued Acquisition of Reduced-Cost Drugs.—A designated provider shall be treated as part of the Department of Defense for purposes of section 8126 of title 38, United States Code, in connection with the provision by the designated provider of health care services to covered beneficiaries pursuant to the participation agreement of the designated provider under section 718(c) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; [former] 42 U.S.C. 248c note) or pursuant to the agreement entered into under subsection (b).

"SEC. 723. PROVISION OF UNIFORM BENEFIT BY DESIGNATED PROVIDERS.

"(a) Uniform Benefit Required.—A designated provider shall offer to enrollees the health benefit option prescribed and implemented by the Secretary under section 731 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160; 10 U.S.C. 1073 note), including accompanying cost-sharing requirements.

"(b) Time for Implementation of Benefit.—A designated provider shall offer the health benefit option described in subsection (a) to enrollees upon the later of the following:

"(1) The date on which health care services within the health care delivery system of the uniformed services are rendered through the TRICARE program in the region in which the designated provider operates.

"(2) October 1, 1997.

"(c) Adjustments.—The Secretary may establish a later date under subsection (b)(2) or prescribe reduced cost-sharing requirements for enrollees.

"SEC. 724. ENROLLMENT OF COVERED BENEFICIARIES.

"(a) Fiscal Year 1997 Limitation.—(1) During fiscal year 1997, the number of covered beneficiaries who are enrolled in managed care plans offered by designated providers may not exceed the number of such enrollees as of October 1, 1995.

"(2) The Secretary may waive the limitation under paragraph (1) if the Secretary determines that additional enrollment authority for a designated provider is required to accommodate covered beneficiaries who are dependents of members of the uniformed services entitled to health care under section 1074(a) of title 10, United States Code.

"(b) Permanent Limitation.—For each fiscal year beginning after September 30, 1997, the number of enrollees in managed care plans offered by designated providers may not exceed 110 percent of the number of such enrollees as of the first day of the immediately preceding fiscal year. The Secretary may waive this limitation as provided in subsection (a)(2).

"(c) Retention of Current Enrollees.—An enrollee in the managed care plan of a designated provider as of September 30, 1997, or such earlier date as the designated provider and the Secretary may agree upon, shall continue receiving services from the designated provider pursuant to the agreement entered into under section 722 unless the enrollee disenrolls from the designated provider. Except as provided in subsection (e), the administering Secretaries may not disenroll such an enrollee unless the disenrollment is agreed to by the Secretary and the designated provider.

"(d) Additional Enrollment Authority.—(1) Subject to paragraph (2), other covered beneficiaries may also receive health care services from a designated provider.

"(2)(A) The designated provider may market such services to, and enroll, covered beneficiaries who—

"(i) do not have other primary health insurance coverage (other than Medicare coverage) covering basic primary care and inpatient and outpatient services;

"(ii) subject to the limitation in subparagraph (B), have other primary health insurance coverage (other than Medicare coverage) covering basic primary care and inpatient and outpatient services; or

"(iii) are enrolled in the direct care system under the TRICARE program, regardless of whether the covered beneficiaries were users of the health care delivery system of the uniformed services in prior years.

"(B) For each fiscal year beginning after September 30, 2003, the number of covered beneficiaries newly enrolled by designated providers pursuant to clause (ii) of subparagraph (A) during such fiscal year may not exceed 10 percent of the total number of the covered beneficiaries who are newly enrolled under such subparagraph during such fiscal year.

"(3) For purposes of this subsection, a covered beneficiary who has other primary health insurance coverage includes any covered beneficiary who has primary health insurance coverage—

"(A) on the date of enrollment with a designated provider pursuant to paragraph (2)(A)(i); or

"(B) on such date of enrollment and during the period after such date while the beneficiary is enrolled with the designated provider.

"(e) Special Rule for Medicare-Eligible Beneficiaries.—If a covered beneficiary who desires to enroll in the managed care program of a designated provider is also entitled to hospital

TMA Version - March 2009

TMA Version - March 2009

insurance benefits under part A of title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.), the covered beneficiary shall elect whether to receive health care services as an enrollee or under part A of title XVIII of the Social Security Act. The Secretary may disenroll an enrollee who subsequently violates the election made under this subsection and receives benefits under part A of title XVIII of the Social Security Act.

"(f) Information Regarding Eligible Covered Beneficiaries.—The Secretary shall provide, in a timely manner, a designated provider with an accurate list of covered beneficiaries within the marketing area of the designated provider to whom the designated provider may offer enrollment.

"(g) Open Enrollment Demonstration Program.—(1) The Secretary of Defense shall conduct a demonstration program under which covered beneficiaries shall be permitted to enroll at any time in a managed care plan offered by a designated provider consistent with the enrollment requirements for the TRICARE Prime option under the TRICARE program, but without regard to the limitation in subsection (b). The demonstration program under this subsection shall cover designated providers, selected by the Secretary of Defense, and the service areas of the designated providers.

"(2) The demonstration program carried out under this section shall commence on October 1, 1999, and end on September 30, 2001.

"(3) Not later than March 15, 2001, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the demonstration program carried out under this subsection. The report shall include, at a minimum, an evaluation of the benefits of the open enrollment opportunity to covered beneficiaries and a recommendation on whether to authorize open enrollments in the managed care plans of designated providers permanently.

"SEC. 725. APPLICATION OF CHAMPUS PAYMENT RULES.

"(a) Application of Payment Rules.—Subject to subsection (b), the Secretary shall require a private facility or health care provider that is a health care provider under the Civilian Health and Medical Program of the Uniformed Services to apply the payment rules described in section 1074(c) of title 10, United States Code, in imposing charges for health care that the private facility or provider provides to enrollees of a designated provider.

"(b) Authorized Adjustments.—The payment rules imposed under subsection (a) shall be subject to such modifications as the Secretary considers appropriate. The Secretary may authorize a lower rate than the maximum rate that would otherwise apply under subsection (a) if the lower rate is agreed to by the designated provider and the private facility or health care provider.

"(c) Regulations.—The Secretary shall prescribe regulations to implement this section after consultation with the other administering Secretaries.

"(d) Conforming Amendment.—[Amended section 1074 of this title.]

"SEC. 726. PAYMENTS FOR SERVICES.

"(a) Form of Payment.—Unless otherwise agreed to by the Secretary and a designated provider, the form of payment for health care services provided by a designated provider shall be on a full risk capitation payment basis. The capitation payments shall be negotiated and agreed upon by the Secretary and the designated provider. In addition to such other factors as the parties may agree to apply, the capitation payments shall be based on the utilization experience of enrollees and competitive market rates for equivalent health care services for a comparable population to such enrollees in the area in which the designated provider is located.

"(b) Limitation on Total Payments.—Total capitation payments for health care services to a designated provider shall not exceed an amount equal to the cost that would have been incurred by the Government if the enrollees had received such health care services through a military treatment facility, the TRICARE program, or the Medicare program, as the case may be. In establishing the ceiling rate for enrollees with the designated providers who are also eligible for the Civilian Health and Medical Program of the Uniformed Services, the Secretary of Defense shall take into account the health status of the enrollees.

"(c) Establishment of Payment Rates on Annual Basis.—The Secretary and a designated provider shall establish capitation payments on an annual basis, subject to periodic review for actuarial soundness and to adjustment for any adverse or favorable selection reasonably anticipated to result from the design of the program under this subtitle.

"(d) Alternative Basis for Calculating Payments.—After September 30, 1999, the Secretary and a designated provider may mutually agree upon a new basis for calculating capitation payments.

"SEC. 727. REPEAL OF SUPERSEDED AUTHORITIES.

"(a) Repeals.—[Repealed sections 248c and 248d of Title 42, The Public Health and Welfare, and section 718(c) of Pub. L. 101-510 and section 726 of Pub. L. 104-106, set out as notes under section 248c of Title 42.]

"(b) Effective Date.—The amendments made by paragraphs (1), (2), and (3) of subsection (a) shall take effect on October 1, 1997."

[Pub. L. 108-199, div. H, Sec. 109, Jan. 23, 2004, 118 Stat. 438, provided that the amendment made by section 109, amending section 724 of Pub. L. 104-201, set out above, is effective immediately after the enactment of Pub. L. 108-136.

[Pub. L. 104-208, div. A, title I, Sec. 101(b) [title VIII, Sec. 8131(b)], Sept. 30, 1996, 110 Stat. 3009-71, 3009-117, provided that: "The amendments made by subsection (a) [amending section 722 of Pub. L. 104-201, set out above] shall take effect as of the date of the enactment of the National Defense Authorization Act for Fiscal Year 1997 [Sept. 23, 1996] as if section 722 of such Act had been enacted as so amended."]

Definition Of TRICARE Program

Pub. L. 104-106, div. A, title VII, Sec. 711, Feb. 10, 1996, 110 Stat. 374, provided that: "For purposes of this subtitle [subtitle B (Secs. 711-718) of title VII of div. A of Pub. L. 104-106, amending section 1097 of this title, enacting provisions set out as notes below, and amending provisions set out as a note below], the term 'TRICARE program' means the managed health care program that is established by the Secretary of Defense under the authority of chapter 55 of title 10, United States Code, principally section 1097 of such title, and includes the competitive selection of contractors to financially underwrite the delivery of health care services under the Civilian Health and Medical Program of the Uniformed Services."

Training In Health Care Management And Administration For TRICARE Lead Agents

Pub. L. 104-106, div. A, title VII, Sec. 715, Feb. 10, 1996, 110 Stat. 375, as amended by Pub. L. 106-398, Sec. 1 [[div. A], title VII, Sec. 760(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A-200, provided that:

"(a) Provision of Training.—The Secretary of Defense shall implement a professional educational program to provide appropriate training in health care management and administration—

"(1) to each commander, deputy commander, and managed care coordinator of a military medical treatment facility of the Department of Defense, and any other person, who is

TMA Version - March 2009

TMA Version - March 2009

selected to serve as a lead agent to coordinate the delivery of health care by military and civilian providers under the TRICARE program; and

"(2) to appropriate members of the support staff of the treatment facility who will be responsible for daily operation of the TRICARE program.

"(b) Limitation on Assignment Until Completion of Training.—No person may be assigned as the commander, deputy commander, or managed care coordinator of a military medical treatment facility or as a TRICARE lead agent or senior member of the staff of a TRICARE lead agent office until the Secretary of the military department concerned submits a certification to the Secretary of Defense that such person has completed the training described in subsection (a)."

[Pub. L. 106-398, Sec. 1 [[div. A], title VII, Sec. 760(c)], Oct. 30, 2000, 114 Stat. 1654, 1654A-200, provided that: "The amendments made by subsection (a) to section 715 of such Act [section 715 of Pub. L. 104-106, set out above]—

["(1) shall apply to a deputy commander, a managed care coordinator of a military medical treatment facility, or a lead agent for coordinating the delivery of health care by military and civilian providers under the TRICARE program, who is assigned to such position on or after the date that is one year after the date of the enactment of this Act [Oct. 30, 2000]; and

["(2) may apply, in the discretion of the Secretary of Defense, to a deputy commander, a managed care coordinator of such a facility, or a lead agent for coordinating the delivery of such health care, who is assigned to such position before the date that is one year after the date of the enactment of this Act."]

Pilot Program Of Individualized Residential Mental Health Services

Pub. L. 104-106, div. A, title VII, Sec. 716, Feb. 10, 1996, 110 Stat. 375, provided that:

"(a) Program Required.—(1) During fiscal year 1996, the Secretary of Defense, in consultation with the other administering Secretaries under chapter 55 of title 10, United States Code, shall implement a pilot program to provide residential and wraparound services to children described in paragraph (2) who are in need of mental health services. The Secretary shall implement the pilot program for an initial period of at least two years in a military health care region in which the TRICARE program has been implemented.

"(2) A child shall be eligible for selection to participate in the pilot program if the child is a dependent (as described in subparagraph (D) or (I) of section 1072(2) of title 10, United States Code) who—

"(A) is eligible for health care under section 1079 or 1086 of such title; and

"(B) has a serious emotional disturbance that is generally regarded as amenable to treatment.

"(b) Wraparound Services Defined.—For purposes of this section, the term 'wraparound services' means individualized mental health services that are provided principally to allow a child to remain in the family home or other least-restrictive and least-costly setting, but also are provided as an aftercare planning service for children who have received acute or residential care. Such term includes nontraditional mental health services that will assist the child to be maintained in the least-restrictive and least-costly setting.

"(c) Pilot Program Agreement.—Under the pilot program the Secretary of Defense shall enter into one or more agreements that require a mental health services provider under the agreement—

"(1) to provide wraparound services to a child described in subsection (a)(2);

"(2) to continue to provide such services as needed during the period of the agreement even if the child moves to another location within the same TRICARE program region during that period; and

"(3) to share financial risk by accepting as a maximum annual payment for such services a case-rate reimbursement not in excess of the amount of the annual standard CHAMPUS residential treatment benefit payable (as determined in accordance with section 8.1 of chapter 3 of volume II of the CHAMPUS policy manual).

"(d) Report.—Not later than March 1, 1998, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report on the program carried out under this section. The report shall contain—

"(1) an assessment of the effectiveness of the program; and

"(2) the Secretary's views regarding whether the program should be implemented throughout the military health care system."

Evaluation And Report On TRICARE Program Effectiveness

Pub. L. 104-106, div. A, title VII, Sec. 717, Feb. 10, 1996, 110 Stat. 376, provided that:

"(a) Evaluation Required.—The Secretary of Defense shall arrange for an on-going evaluation of the effectiveness of the TRICARE program in meeting the goals of increasing the access of covered beneficiaries under chapter 55 of title 10, United States Code, to health care and improving the quality of health care provided to covered beneficiaries, without increasing the costs incurred by the Government or covered beneficiaries. The evaluation shall specifically address—

"(1) the impact of the TRICARE program on military retirees with regard to access, costs, and quality of health care services; and

"(2) identify noncatchment areas in which the health maintenance organization option of the TRICARE program is available or is proposed to become available.

"(b) Entity To Conduct Evaluation.—The Secretary may use a federally funded research and development center to conduct the evaluation required by subsection (a).

"(c) Annual Report.—Not later than March 1, 1997, and each March 1 thereafter, the Secretary shall submit to Congress a report describing the results of the evaluation under subsection (a) during the preceding year."

Use Of Health Maintenance Organization Model As Option For Military Health Care

Pub. L. 103-160, div. A, title VII, Sec. 731, Nov. 30, 1993, 107 Stat. 1696, as amended by Pub. L. 103-337, div. A, title VII, Sec. 715, Oct. 5, 1994, 108 Stat. 2803; Pub. L. 104-106, div. A, title VII, Sec. 714, Feb. 10, 1996, 110 Stat. 374, provided that:

"(a) Use of Model.—The Secretary of Defense shall prescribe and implement a health benefit option (and accompanying cost-sharing requirements) for covered beneficiaries eligible for health care under chapter 55 of title 10, United States Code, that is modelled on health maintenance organization plans offered in the private sector and other similar Government health insurance programs. The Secretary shall include, to the maximum extent practicable, the health benefit option required under this subsection as one of the options available to covered beneficiaries in all managed health care initiatives undertaken by the Secretary after December 31, 1994.

"(b) Elements of Option.—The Secretary shall offer covered beneficiaries who enroll in the health benefit option required under subsection (a) reduced out-of-pocket costs and a benefit structure that is as uniform as possible throughout the United States. The Secretary shall allow enrollees to seek health care outside of the option, except that the Secretary may prescribe higher out-of-pocket costs than are provided under section 1079 or 1086 of title 10, United States Code, for enrollees who obtain health care outside of the option.

"(c) Government Costs.—The health benefit option required under subsection (a) shall be administered so that the costs incurred by the Secretary under the TRICARE program are no

TMA Version - March 2009

TMA Version - March 2009

greater than the costs that would otherwise be incurred to provide health care to the members of the uniformed services and covered beneficiaries who participate in the TRICARE program.

"(d) Definitions.—For purposes of this section:

"(1) The term 'covered beneficiary' means a beneficiary under chapter 55 of title 10, United States Code, other than a beneficiary under section 1074(a) of such title.

"(2) The term 'TRICARE program' means the managed health care program that is established by the Secretary of Defense under the authority of chapter 55 of title 10, United States Code, principally section 1097 of such title, and includes the competitive selection of contractors to financially underwrite the delivery of health care services under the Civilian Health and Medical Program of the Uniformed Services.

"(e) Regulations.—Not later than December 31, 1994, the Secretary shall prescribe final regulations to implement the health benefit option required by subsection (a).

"(f) Modification of Existing Contracts.—In the case of managed health care contracts in effect or in final stages of acquisition as of December 31, 1994, the Secretary may modify such contracts to incorporate the health benefit option required under subsection (a)."

Managed Health Care Program And Contracts For Military Health Services System

Pub. L. 104-61, title VI, Dec. 1, 1995, 109 Stat. 649, provided in part that the date for implementation of the nation-wide managed care military health services system would be extended to Sept. 30, 1997.

Pub. L. 103-139, title VIII, Sec. 8025, Nov. 11, 1993, 107 Stat. 1443, provided that: "Notwithstanding any other provision of law, to establish region-wide, at-risk, fixed price managed care contracts possessing features similar to those of the CHAMPUS Reform Initiative, the Secretary of Defense shall submit to the Congress a plan to implement a nation-wide managed health care program for the military health services system not later than December 31, 1993: Provided, That the program shall include, but not be limited to: (1) a uniform, stabilized benefit structure characterized by a triple option health benefit feature; (2) a regionally-based health care management system; (3) cost minimization incentives including 'gatekeeping' and annual enrollment procedures, capitation budgeting, and at-risk managed care support contracts; and (4) full and open competition for all managed care support contracts: Provided further, That the implementation of the nation-wide managed care military health services system shall be completed by September 30, 1996: Provided further, That the Department shall competitively award contracts in fiscal year 1994 for at least four new region-wide, at-risk, fixed price managed care support contracts consistent with the nation-wide plan, that one such contract shall include the State of Florida (which may include Department of Veterans Affairs' medical facilities with the concurrence of the Secretary of Veterans Affairs), one such contract shall include the States of Washington and Oregon, and one such contract shall include the State of Texas: Provided further, That any law or regulation of a State or local government relating to health insurance, prepaid health plans, or other health care delivery, administration, and financing methods shall be preempted and shall not apply to any region-wide, at-risk, fixed price managed care contract entered into pursuant to chapter 55 of title 10, United States Code: Provided further, That the Department shall competitively award within 13 months after the date of enactment of this Act [Nov. 11, 1993] two contracts for stand-alone, at-risk managed mental health services in high utilization, high-cost areas, consistent with the management and service delivery features in operation in Department of Defense managed mental health care contracts: Provided further, That the Assistant Secretary of Defense for Health Affairs shall, during the current fiscal year, initiate through competitive procedures a managed health care program for eligible beneficiaries in the area of Homestead Air Force Base with benefits and services substantially identical to those established to serve beneficiary populations in areas where military medical facilities have been terminated, to include retail pharmacy networks

available to Medicare-eligible beneficiaries, and shall present a plan to implement this program to the House and Senate Committees on Appropriations not later than January 15, 1994."

Condition On Expansion Of CHAMPUS Reform Initiative To Other Locations

Pub. L. 102-484, div. A, title VII, Sec. 712, Oct. 23, 1992, 106 Stat. 2435, as amended by Pub. L. 103-160, div. A, title VII, Sec. 720, Nov. 30, 1993, 107 Stat. 1695; Pub. L. 103-337, div. A, title VII, Sec. 714(c), Oct. 5, 1994, 108 Stat. 2803, provided that:

"(a) Condition.—(1) Except as provided in subsection (b), the Secretary of Defense may not expand the CHAMPUS reform initiative underway in the States of California and Hawaii to another location until not less than 90 days after the date on which the Secretary certifies to Congress that expansion of the initiative to that location is the most efficient method of providing health care to covered beneficiaries in that location. In determining whether the expansion of the CHAMPUS reform initiative to a location is the most efficient method of providing health care to covered beneficiaries in that location, the Secretary shall consider the cost-effectiveness of the initiative (while assuring that the combined cost of care in military treatment facilities and under the Civilian Health and Medical Program of the Uniformed Services will not be increased as a result of the expansion) and the effect of the expansion of the initiative on the access of covered beneficiaries to health care and on the quality of health care received by covered beneficiaries.

"(2) To the extent any revision of the CHAMPUS reform initiative is necessary in order to make the certification required by this subsection, the Secretary shall assure that enrolled covered beneficiaries may obtain health care services with reduced out-of-pocket costs, as compared to standard CHAMPUS.

"(b) Exception.—The Secretary of Defense may waive the operation of the condition on the expansion of the CHAMPUS reform initiative specified in subsection (a) in order to expand the initiative to a location adversely affected by the closure or realignment of a military installation in that location, as determined by the Secretary.

"(c) Evaluation of Certification.—The Comptroller General of the United States and the Director of the Congressional Budget Office shall evaluate each certification made by the Secretary of Defense under subsection (a) that expansion of the CHAMPUS reform initiative to another location is the most efficient method of providing health care to covered beneficiaries in that location. They shall submit their findings to Congress if these findings differ substantially from the findings upon which the Secretary made the decision to expand the CHAMPUS reform initiative.

"(d) Definitions.—For purposes of this section:

"(1) The terms 'CHAMPUS reform initiative' and 'initiative' mean the health care delivery project required by section 702 of the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661; 10 U.S.C. 1073 note).

"(2) The term 'covered beneficiary' has the meaning given that term in section 1072(5) of title 10, United States Code.

"(3) The terms 'Civilian Health and Medical Program of the Uniformed Services' and 'CHAMPUS' have the meaning given the term 'Civilian Health and Medical Program of the Uniformed Services' in section 1072(4) of title 10, United States Code."

Alternative Health Care Delivery Methodologies

Pub. L. 102-484, div. A, title VII, Sec. 713, Oct. 23, 1992, 106 Stat. 2435, as amended by Pub. L. 103-160, div. A, title VII, Sec. 719, Nov. 30, 1993, 107 Stat. 1694, directed the Secretary of Defense to continue to conduct during fiscal years 1993 through 1996 a broad array of reform initiatives for furnishing health care to persons who were eligible to receive health care under chapter 55 of this title and to submit to Congress a report regarding such initiatives not later than Sept. 30, 1994, and

TMA Version - March 2009

further directed the Secretary to take certain steps to ensure the continuation of the CHAMPUS reform initiative in the States of California and Hawaii.

Military Health Care For Persons Reliant On Health Care Facilities At Bases Being Closed Or Realigned

Pub. L. 102-484, div. A, title VII, Sec. 722, Oct. 23, 1992, 106 Stat. 2439, as amended by Pub. L. 108-136, div. A, title VII, Sec. 726, Nov. 24, 2003, 117 Stat. 1535, Pub. L. 110-181, div. A, title X, Sec. 1063(i), Jan. 28, 2008, 122 Stat. 324, provided that:

"(a) Establishment.—Not later than December 31, 2003, the Secretary of Defense shall establish a working group on the provision of military health care to persons who rely for health care on health care facilities located at military installations—

"(1) inside the United States that are selected for closure or realignment in the 2005 round of realignments and closures authorized by sections 2912, 2913, and 2914 of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note), as added by title XXX of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107-107; 115 Stat. 1342); or

"(2) outside the United States that are selected for closure or realignment as a result of force posture changes.

"(b) Membership.—The members of the working group shall include, at a minimum, the following:

"(1) The Assistant Secretary of Defense for Health Affairs, or a designee of the Assistant Secretary.

"(2) The Surgeon General of the Army, or a designee of that Surgeon General.

"(3) The Surgeon General of the Navy, or a designee of that Surgeon General.

"(4) The Surgeon General of the Air Force, or a designee of that Surgeon General.

"(5) At least one independent member (appointed by the Secretary of Defense) from each TRICARE region, but not to exceed a total of 12 members appointed under this paragraph, whose experience in matters within the responsibility of the working group qualify that person to represent persons authorized health care under chapter 55 of title 10, United States Code.

"(c) Duties.—(1) In developing the recommendations for the 2005 round of realignments and closures required by sections 2913 and 2914 of the Defense Base Closure and Realignment Act of 1990 [Pub. L. 101-510, 10 U.S.C. 268 note], the Secretary of Defense shall consult with the working group.

"(2) The working group shall be available to provide assistance to the Defense Base Closure and Realignment Commission.

"(3) In the case of each military installation referred to in paragraph (1) or (2) of subsection (a) whose closure or realignment will affect the accessibility to health care services for persons entitled to such services under chapter 55 of title 10, United States Code, the working group shall provide to the Secretary of Defense a plan for the provision of the health care services to such persons.

"(d) Special Considerations.—In carrying out its duties under subsection (c), the working group—

"(1) shall conduct meetings with persons entitled to health care services under chapter 55 of title 10, United States Code, or representatives of such persons;

"(2) may use reliable sampling techniques;

"(3) may visit the areas where closures or realignments of military installations will adversely affect the accessibility of health care for such persons and may conduct public meetings; and

TMA Version - March 2009

"(4) shall ensure that members of the uniformed services on active duty, members and former members of the uniformed services entitled to retired or retainer pay, and dependents and survivors of such members and retired personnel are afforded the opportunity to express their views.

"(e) Application of Advisory Committee Act.—The provisions of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the working group established pursuant to this section.

"(f) Termination.—The working group established pursuant to subsection (a) shall terminate on December 31, 2006."

Authorization For Extension Of CHAMPUS Reform Initiative

Pub. L. 102-190, div. A, title VII, Sec. 722, Dec. 5, 1991, 105 Stat. 1406, provided that:

"(a) Authority.—Upon the termination (for any reason) of the contract of the Department of Defense in effect on the date of the enactment of this Act [Dec. 5, 1991] under the CHAMPUS reform initiative established under section 702 of the National Defense Authorization Act for Fiscal Year 1987 [Pub. L. 99-661] (10 U.S.C. 1073 note), the Secretary of Defense may enter into a replacement or successor contract with the same or a different contractor and for such amount as may be determined in accordance with applicable procurement laws and regulations and without regard to any limitation (enacted before, on, or after the date of the enactment of this Act) on the availability of funds for that purpose.

"(b) Treatment of Limitation on Funds for Program.—No provision of law stated as a limitation on the availability of funds may be treated as constituting the extension of, or as requiring the extension of, any contract under the CHAMPUS reform initiative that would otherwise expire in accordance with its terms."

Extension Of CHAMPUS Reform Initiative For Certain States

Pub. L. 102-172, title VIII, Sec. 8032, Nov. 26, 1991, 105 Stat. 1178, provided: "That notwithstanding any other provision of law, the CHAMPUS Reform Initiative contract for California and Hawaii shall be extended until February 1, 1994, within the limits and rates specified in the contract: Provided further, That the Department shall competitively award contracts for the geographic expansion of the CHAMPUS Reform Initiative in Florida (which may include Department of Veterans Affairs medical facilities with the concurrence of the Secretary of Veterans Affairs), Washington, Oregon, and the Tidewater region of Virginia: Provided further, That competitive expansion of the CHAMPUS Reform Initiative may occur in any other regions that the Assistant Secretary of Defense for Health Affairs deems appropriate.

Conditions On Expansion Of CHAMPUS Reform Initiative

Pub. L. 101-510, div. A, title VII, Sec. 715, Nov. 5, 1990, 104 Stat. 1584, provided that:

"(a) Certification of Cost-Effectiveness.—The Secretary of Defense may not proceed with the proposed expansion of the CHAMPUS reform initiative underway in the States of California and Hawaii until not less than 90 days after the date on which the Secretary certifies to the Congress that—

"(1) such CHAMPUS reform initiative has been demonstrated to be more cost-effective than the Civilian Health and Medical Program of the Uniformed Services or any other health care demonstration program being conducted by the Secretary;

"(2) the contractor selected to underwrite the delivery of health care under the CHAMPUS reform initiative will accomplish the expansion without the disruption of services to beneficiaries under the Civilian Health and Medical Program of the Uniformed Services or delays in the processing of claims; and

TMA Version - March 2009

TMA Version - March 2009

"(3) such contractor is currently, and projected to remain, financially able to underwrite the CHAMPUS reform initiative.

"(b) Report on Certification.—Not later than 30 days after the date on which the Secretary of Defense submits the certification required by subsection (a), the Comptroller General of the United States and the Director of the Congressional Budget Office shall jointly submit to Congress a report evaluating such certification.

"(c) CHAMPUS Reform Initiative Defined.—For purposes of this section, the term 'CHAMPUS reform initiative' has the meaning given that term in section 702(d)(1) of the Department of Defense Authorization Act for Fiscal Year 1987 [Pub. L. 99-661] (10 U.S.C. 1073 note)."

Requirements Prior To Termination Of Medical Services At Military Medical Treatment Facilities

Pub. L. 101-510, div. A, title VII, Sec. 716, Nov. 5, 1990, 104 Stat. 1585, prohibited the Secretary of a military department, during the period beginning on Nov. 5, 1990, and ending on Sept. 30, 1995, from taking any action to close a military medical facility or reduce the level of care provided at such a facility until 90 days after the Secretary had submitted to Congress a report describing the reason for the action, projected savings, impact on costs, and alternative methods of providing care. Requirement For Availability Of Additional Insurance Coverage; Funding Limitations; Definition Pub. L. 100-180, div. A, title VII, Sec. 732(e)-(g), Dec. 4, 1987, 101 Stat. 1120, 1121, provided that:

"(e) Requirement for Availability of Additional Insurance Coverage.—(1) The Secretary of Defense shall make every effort to enter into an agreement, similar to the one being negotiated with a private insurer on the date of the enactment of this Act [Dec. 4, 1987], that would provide an insurance plan that meets the requirements described in paragraph (3).

"(2) If an agreement referred to in paragraph (1) is not entered into before a request for proposals with respect to the second phase of the CHAMPUS reform initiative is issued, the Secretary shall provide for an insurance plan which meets the requirements described in paragraph (3) through either of the following means:

"(A) By including, in any request for proposals with respect to the second (and any subsequent) phase of the CHAMPUS reform initiative, a requirement for the contractor to offer an option to elect an insurance plan which meets the requirements described in paragraph (3).

"(B) By including, in any request for proposals for a contract to process claims for CHAMPUS, a requirement for the contractor (known as a fiscal intermediary) to offer an option to elect an insurance plan which meets the requirements described in paragraph (3).

"(3) The insurance plan requirements referred to in paragraphs (1) and (2) are the following:

"(A) At the election of the individual, the plan shall be available to an individual losing eligibility (by reason of discharge, release from active duty, a change in family status (including divorce or annulment, or, in the case of a child, reaching age 22), or other similar reason) to be a covered beneficiary under chapter 55 of title 10, United States Code.

"(B) The plan shall provide for coverage of benefits similar to the coverage of benefits available to the individual under CHAMPUS, regardless of any pre-existing condition.

"(C) The plan shall provide that enrollees in the plan shall pay the full periodic charges for the benefit coverage.

"(f) Funding Limitations.—(1) None of the funds appropriated or otherwise made available to the Department of Defense may be obligated or expended for the purpose of entering into a contract for the demonstration phase of the CHAMPUS reform initiative required by section 702(a)(1) of the National Defense Authorization Act for Fiscal Year 1987 [section 702(a)(1) of

Pub. L. 99-661, set out as a note below] until the requirements of section 702(a)(4) of such Act (as added by subsection (a)) are met.

"(2) None of the funds appropriated or otherwise made available to the Department of Defense may be obligated or expended for the purpose of requesting a proposal for the second (or any subsequent) phase of the CHAMPUS reform initiative as described in section 702(c) of the National Defense Authorization Act for Fiscal Year 1987 until the requirements of paragraph (2) of section 702(c) of such Act (as added by subsection (c)) are met.

"(g) CHAMPUS Defined.—In this section, the term 'CHAMPUS' has the meaning given such term by section 1072(4) of title 10, United States Code."

CHAMPUS Reform Initiative

Pub. L. 99-661, div. A, title VII, Sec. 702, Nov. 14, 1986, 100 Stat. 3899, as amended by Pub. L. 100-180, div. A, title VII, Sec. 732(a), (c), Dec. 4, 1987, 101 Stat. 1119, provided that:

"(a) Demonstration Project.—(1) The Secretary of Defense shall conduct a project designed to demonstrate the feasibility of improving the effectiveness of the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) through the competitive selection of contractors to financially underwrite the delivery of health care services under the program.

"(2) The demonstration project required by paragraph (1)—

"(A) shall begin not later than September 30, 1988, and continue for not less than one year;

"(B) shall include not more than one-third of covered beneficiaries; and

"(C) shall include a health care enrollment system that meets the requirements specified in section 1099 of title 10, United States Code (as added by section 701(a)(1)).

"(3)(A) The Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the development of the demonstration project required by paragraph (1). Such report shall include—

"(i) a description of the scope and structure of the project;

"(ii) an estimate of the costs of the care to be provided under the project; and

"(iii) a description of the health care enrollment system included in the project.

"(B) The report required by subparagraph (A) shall be submitted—

"(i) not later than 60 days before the initiation of the project, if the project is to be restricted to a contiguous area of the United States; or

"(ii) not later than 60 days before a solicitation for bids or proposals with respect to such project is issued, if the project will not be restricted to a contiguous area of the United States.

"(4) The Secretary of Defense shall develop a methodology to be used in evaluating the results of the demonstration project required by paragraph (1) and shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on such methodology.

"(b) Study of Health Care Alternatives.—(1) The demonstration project required by subsection (a)(1) shall include a study of—

"(A) methods to guarantee the maintenance of competition among providers of health care to persons under the jurisdiction of the Secretary;

"(B) the merits of the use of a voucher system or a fee schedule for provision of health care to such persons; and

"(C) methods to guarantee that community hospitals are given equal consideration with other health care providers for provision of health care services under contracts with the Department of Defense.

TMA Version - March 2009

TMA Version - March 2009

"(2) The Secretary shall submit to Congress a report discussing the matters evaluated in the study required by paragraph (1) before the end of the 90-day period beginning on the date of the enactment of this Act [Nov. 14, 1986].

"(c) Phased Implementation of CHAMPUS Reform Initiative.—(1) The Secretary of Defense may proceed with implementation of the CHAMPUS reform initiative, to be carried out in two phases during a period of not less than two years, if—

"(A) the Secretary determines, based on the results of the demonstration project required by subsection (a)(1), that such initiative should be implemented;

"(B) not less than one year elapses after the date on which the demonstration project required by subsection (a)(1) is initiated; and

"(C) 90 days elapse after the date on which the Secretary submits to the Committees on Armed Services of the Senate and House of Representatives a report that includes—

"(i) a description of the results of the demonstration project, evaluated in accordance with the methodology developed under subsection (a)(4);

"(ii) a description of any changes the Secretary intends to make in the initiative during the proposed implementation; and

"(iii) a comparison of the costs of providing health care under CHAMPUS with the costs of providing health care under the demonstration project and the estimated costs of providing health care under the CHAMPUS reform initiative if fully implemented.

"(2) The Secretary may not issue a request for proposals with respect to the second (or any subsequent) phase of the CHAMPUS reform initiative until—

"(A) all principal features of the demonstration project, including networks of providers of health care, have been in operation for not less than one year; and

"(B) the expiration of 60 days after the date on which the report described in paragraph (1)(C) has been received by the committees referred to in such paragraph.

"(d) Definitions.—In this section:

"(1) The term 'CHAMPUS reform initiative' means the competitive selection of contractors to financially underwrite the delivery of health care services under the Civilian Health and Medical Program of the Uniformed Services.

"(2) The term 'Civilian Health and Medical Program of the Uniformed Services' has the meaning given such term in section 1072(4) of title 10, United States Code (as added by section 701(b)).

"(3) The term 'covered beneficiary' has the meaning given such term in section 1072(5) of title 10, United States Code (as added by section 701(b))."

§ 1074. Medical and dental care for members and certain former members

TMA Version - March 2009

(a)(1) Under joint regulations to be prescribed by the administering Secretaries, a member of a uniformed service described in paragraph (2) is entitled to medical and dental care in any facility of any uniformed service.

(2) Members of the uniformed services referred to in paragraph (1) are as follows:

(A) A member of a uniformed service on active duty.

(B) A member of a reserve component of a uniformed service who has been commissioned as an officer if—

(i) the member has requested orders to active duty for the member's initial period of active duty following the commissioning of the member as an officer;

(ii) the request for orders has been approved;

(iii) the orders are to be issued but have not been issued or the orders have been issued but the member has not entered active duty; and

(iv) the member does not have health care insurance and is not covered by any other health benefits plan.

(b)(1) Under joint regulations to be prescribed by the administering Secretaries, a member or former member of a uniformed service who is entitled to retired or retainer pay, or equivalent pay may, upon request, be given medical and dental care in any facility of any uniformed service, subject to the availability of space and facilities and the capabilities of the medical and dental staff. The administering Secretaries may, with the agreement of the Secretary of Veterans Affairs, provide care to persons covered by this subsection in facilities operated by the Secretary of Veterans Affairs and determined by him to be available for this purpose on a reimbursable basis at rates approved by the President.

(2) Paragraph (1) does not apply to a member or former member entitled to retired pay for non-regular service under chapter 1223 of this title who is under 60 years of age.

(c)(1) Funds appropriated to a military department, the Department of Homeland Security (with respect to the Coast Guard when it is not operating as a service in the Navy), or the Department of Health and Human Services (with respect to the National Oceanic and Atmospheric Administration and the Public Health Service) may be used to provide medical and dental care to persons entitled to such care by law or regulations, including the provision of such care (other than elective private treatment) in private facilities for members of the uniformed services. If a private facility or health care provider providing care under this subsection is a health care provider under the Civilian Health and Medical Program of the Uniformed Services, the Secretary of Defense, after consultation

TMA Version - March 2009

with the other administering Secretaries, may by regulation require the private facility or health care provider to provide such care in accordance with the same payment rules (subject to any modifications considered appropriate by the Secretary) as apply under that program.

(2)(A) Subject to such exceptions as the Secretary of Defense considers necessary, coverage for medical care for members of the uniformed services under this subsection, and standards with respect to timely access to such care, shall be comparable to coverage for medical care and standards for timely access to such care under the managed care option of the TRICARE program known as TRICARE Prime.

(B) The Secretary of Defense shall enter into arrangements with contractors under the TRICARE program or with other appropriate contractors for the timely and efficient processing of claims under this subsection.

(C) The Secretary of Defense shall consult with the other administering Secretaries in the administration of this paragraph.

(3)(A) A member of the uniformed services described in subparagraph (B) may not be required to receive routine primary medical care at a military medical treatment facility.

(B) A member referred to in subparagraph (A) is a member of the uniformed services on active duty who is entitled to medical care under this subsection and who—

(i) receives a duty assignment described in subparagraph (C); and

(ii) pursuant to the assignment of such duty, resides at a location that is more than 50 miles, or approximately one hour of driving time, from the nearest military medical treatment facility adequate to provide the needed care.

(C) A duty assignment referred to in subparagraph (B) means any of the following:

(i) Permanent duty as a recruiter.

(ii) Permanent duty at an educational institution to instruct, administer a program of instruction, or provide administrative services in support of a program of instruction for the Reserve Officers' Training Corps.

(iii) Permanent duty as a full-time adviser to a unit of a reserve component.

(iv) Any other permanent duty designated by the Secretary concerned for purposes of this paragraph.

(4)(A) Subject to such terms and conditions as the Secretary of Defense considers appropriate, coverage comparable to that provided by the Secretary under subsections (d) and (e) of section 1079 of this title shall be provided under this subsection to members of the uniformed services who incur a serious injury or illness on active duty as defined by regulations prescribed by the Secretary.

(B) The Secretary of Defense shall prescribe in regulations—

(i) the individuals who shall be treated as the primary caregivers of a member of the uniformed services for purposes of this paragraph; and

(ii) the definition of serious injury or illness for the purposes of this paragraph.

(d)(1) For the purposes of this chapter, a member of a reserve component of the armed forces who is issued a delayed-effective-date active-duty order, or is covered by such an order, shall be treated as being on active duty for a period of more than 30 days beginning on the later of the date that is—

(A) the date of the issuance of such order; or

(B) 180 days before the date on which the period of active duty is to commence under such order for that member.

(2) In this subsection, the term "delayed-effective-date active-duty order" means an order to active duty for a period of more than 30 days in support of a contingency operation under a provision of law referred to in section 101(a)(13)(B) of this title that provides for active-duty service to begin under such order on a date after the date of the issuance of the order.

NOTES

Source

(Added Pub. L. 85-861, Sec. 1(25)(B), Sept. 2, 1958, 72 Stat. 1446; amended Pub. L. 89-614, Sec. 2(2), Sept. 30, 1966, 80 Stat. 862; Pub. L. 96-513, title V, Sec. 511(36), (37), Dec. 12, 1980, 94 Stat. 2923; Pub. L. 98-525, title XIV, Sec. 1401(e)(1), Oct. 19, 1984, 98 Stat. 2616; Pub. L. 98-557, Sec. 19(3), Oct. 30, 1984, 98 Stat. 2869; Pub. L. 101-189, div. A, title VII, Sec. 729, title XVI, Sec. 1621(a)(2), Nov. 29, 1989, 103 Stat. 1481, 1603; Pub. L. 101-510, div. A, title XIV, Sec. 1484(j)(1), Nov. 5, 1990, 104 Stat. 1718; Pub. L. 104-106, div. A, title VII, Sec. 723, Feb. 10, 1996, 110 Stat. 377; Pub. L. 104-201, div. A, title VII, Sec. 725(d), Sept. 23, 1996, 110 Stat. 2596; Pub. L. 105-85, div. A, title VII, Sec. 731(a)(1), Nov. 18, 1997, 111 Stat. 1810; Pub. L. 106-398, Sec. 1 [[div. A], title VII, Sec. 722(a)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A-185; Pub. L. 107-296, title XVII, Sec. 1704(b)(1), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 108-106, title I, Sec. 1116, Nov. 6, 2003, 117 Stat. 1218; Pub. L. 108-136, div. A, title VII, Secs. 703, 708, Nov. 24, 2003, 117 Stat. 1527, 1530; Pub. L. 108-375, div. A, title VII, Sec. 703, Oct. 28, 2004, 118 Stat. 1982; Pub. L. 109-163, div. A, title VII, Sec. 743(a), Jan. 6, 2006, 119 Stat. 3360; Pub. L. 110-181, div. A, title VI, Sec. 647(b), title XVI, Sec. 1633(a), Jan. 28, 2008, 122 Stat. 161, 459; Pub. L. 111-84, div. A, title VII, Sec. 702, Oct. 28, 2009, 123 Stat. 2373.)

HISTORICAL AND REVISION NOTES

REVISED SECTION	SOURCE (U.S. CODE)	SOURCE (STATUTES AT LARGE)
1074(a)	37:421(a).	June 7, 1956, ch. 374, Secs. 102(a)(3) (as applicable to Sec. 301(b)), 301(a), (b), 70 Stat. 250, 253.

TMA Version - March 2009

TMA Version - March 2009

HISTORICAL AND REVISION NOTES (CONTINUED)

REVISED SECTION	SOURCE (U.S. CODE)	SOURCE (STATUTES AT LARGE)
1074(b)	37:402(a)(3) (as applicable to 37:421(b)). 37:421(b).	

In subsection (a), words of entitlement are substituted for the correlative words of obligation. In subsection (b), the words "active duty (other than for training)" are substituted for the words "active duty as defined in section 901(b) of Title 50" to reflect section 101(22) of this title. The words "and dental" are inserted before the word "staff" for clarity. The words "retirement" and "retirement pay" are omitted as surplusage.

Prior Provisions

Provisions similar to those in subsec. (c) of this section were contained in Pub. L. 98-212, title VII, Sec. 735, Dec. 8, 1983, 97 Stat. 1444, which was formerly set out as a note under section 138 [now 114] of this title, and which was amended by Pub. L. 98-525, title XIV, Secs. 1403(a)(2), 1404, Oct. 19, 1984, 98 Stat. 2621, eff. Oct. 1, 1985, to strike out these provisions.

A prior section 1074, act Aug. 10, 1956, ch. 1041, 70A Stat. 82, related to enactment of legislation relating to voting in other elections, prior to repeal by Pub. L. 85-861, Sec. 36B(5), Sept. 2, 1958, 72 Stat. 1570, as superseded by the Federal Voting Assistance Act of 1955 which is classified to subchapter I-D (Sec. 1973cc et seq.) of chapter 20 of Title 42, The Public Health and Welfare.

Amendments

2009—Subsec. (d)(1)(B). Pub. L. 111-84 substituted "180 days" for "90 days".

2008—Subsec. (b). Pub. L. 110-181, Sec. 647(b), designated existing provisions as par. (1) and added par. (2).

Subsec. (c)(4). Pub. L. 110-181, Sec. 1633(a), added par. (4).

2006—Subsec. (a)(2)(B)(iii). Pub. L. 109-163 inserted "or the orders have been issued but the member has not entered active duty" before semicolon at end.

2004—Subsec. (d)(3). Pub. L. 108-375 struck out par. (3) which read as follows: "This subsection shall cease to be effective on December 31, 2004."

2003—Subsec. (a). Pub. L. 108-136, Sec. 708, inserted "(1)" after "(a)", substituted "described in paragraph (2)" for "who is on active duty", and added par. (2).
Subsec. (d). Pub. L. 108-136, Sec. 703, amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows:

> "(1) For the purposes of this chapter, a member of a reserve component of the armed forces who is issued a delayed-effective-date active-duty order, or is covered by such an order, shall be treated as being on active duty for a period of more than 30 days beginning on the later of the date that is—
>
> > "(A) the date of the issuance of such order; or
> > "(B) 90 days before date on which the period of active duty is to commence under such order for that member.

"(2) In this subsection, the term 'delayed-effective-date active-duty order' means an order to active duty for a period of more than 30 days in support of a contingency operation under a provision of law referred to in section 101(a)(13)(B) of this title that provides for active-duty service to begin under such order on a date after the date of the issuance of the order.
"(3) This section shall cease to be effective on September 30, 2004."
Pub. L. 108-106 added subsec. (d).

2002—Subsec. (c)(1). Pub. L. 107-296 substituted "of Homeland Security" for "of Transportation".

2000—Subsec. (c). Pub. L. 106-398, Sec. 1 [[div. A], title VII, Sec. 722(a)(1)(A)], substituted "uniformed services" for "armed forces" in pars. (1), (2)(A), and (3)(B).
Subsec. (c)(1). Pub. L. 106-398, Sec. 1 [[div. A], title VII, Sec. 722(a)(1)(B)], inserted ", the Department of Transportation (with respect to the Coast Guard when it is not operating as a service in the Navy), or the Department of Health and Human Services (with respect to the National Oceanic and Atmospheric Administration and the Public Health Service)" after "military department".
Subsec. (c)(2)(C). Pub. L. 106-398, Sec. 1 [[div. A], title VII, Sec. 722(a)(1)(C)], added subpar. (C).
Subsec. (c)(3)(A). Pub. L. 106-398, Sec. 1 [[div. A], title VII, Sec. 722(a)(1)(D)], substituted "A member of the uniformed services described in subparagraph (B) may not be required" for "The Secretary of Defense may not require a member of the armed forces described in subparagraph (B)".

1997—Subsec. (c). Pub. L. 105-85 designated existing provisions as par. (1) and added pars. (2) and (3).

1996—Subsec. (d). Pub. L. 104-201 struck out subsec. (d) which read as follows:
"(d)(1) The Secretary of Defense may require, by regulation, a private CHAMPUS provider to apply the CHAMPUS payment rules (subject to any modifications considered appropriate by the Secretary) in imposing charges for health care that the private CHAMPUS provider provides to a member of the uniformed services who is enrolled in a health care plan of a facility deemed to be a facility of the uniformed services under section 911(a) of the Military Construction Authorization Act, 1982 (42 U.S.C. 248c(a)) when the health care is provided outside the catchment area of the facility.
"(2) In this subsection:
"(A) The term 'private CHAMPUS provider' means a private facility or health care provider that is a health care provider under the Civilian Health and Medical Program of the Uniformed Services.
"(B) The term 'CHAMPUS payment rules' means the payment rules referred to in subsection (c).
"(3) The Secretary of Defense shall prescribe regulations under this subsection after consultation with the other administering Secretaries."
Pub. L. 104-106 added subsec. (d).

1990—Subsec. (b). Pub. L. 101-510 substituted "Secretary of Veterans Affairs" for "Administrator" after "operated by the".

1989—Subsec. (b). Pub. L. 101-189, Sec. 1621(a)(2), substituted "Secretary of Veterans Affairs" for "Administrator of Veterans' Affairs".
Subsec. (c). Pub. L. 101-189, Sec. 729, inserted at end "If a private facility or health care provider providing care under this subsection is a health care provider under the Civilian Health and Medical Program of the Uniformed Services, the Secretary of Defense, after consultation with the other administering Secretaries, may by regulation require the private facility or health care provider to

TMA Version - March 2009

provide such care in accordance with the same payment rules (subject to any modifications considered appropriate by the Secretary) as apply under that program."

1984—Subsecs. (a), (b). Pub. L. 98-557 substituted reference to administering Secretaries for reference to Secretary of Defense and Secretary of Health and Human Services wherever appearing.
Subsec. (c). Pub. L. 98-525 added subsec. (c).

1980—Subsec. (a). Pub. L. 96-513, Sec. 511(36), substituted "Secretary of Health and Human Services" for "Secretary of Health, Education, and Welfare".
Subsec. (b). Pub. L. 96-513, Sec. 511(36), (37), substituted "Secretary of Health and Human Services" and "President" for "Secretary of Health, Education, and Welfare" and "Bureau of the Budget", respectively.

1966—Subsec. (b). Pub. L. 89-614 struck out provision which excepted from medical and dental care a member or former member who is entitled to retired pay under chapter 67 of this title and has served less than eight years on active duty (other than for training) and authorized care to be provided to persons covered by subsec. (b) in facilities operated by the Administrator of Veterans' Affairs and available on a reimbursable basis at rates approved by the Bureau of the Budget.

Effective Date Of 2008 Amendment
Pub. L. 110-181, div. A, title XVI, Sec. 1633(b), Jan. 28, 2008, 122 Stat. 459, provided that: "The amendment made by subsection (a) [amending this section] shall take effect on January 1, 2008."

Effective Date Of 2006 Amendment
Pub. L. 109-163, div. A, title VII, Sec. 743(b), Jan. 6, 2006, 119 Stat. 3360, provided that: "The amendment made by subsection (a) [amending this section] shall take effect as of November 24, 2003, and as if included in the enactment of paragraph (2) of section 1074(a) of title 10, United States Code, by section 708 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108-136; 117 Stat. 1530)."

Effective Date Of 2002 Amendment
Amendment by Pub. L. 107-296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107-296, set out as a note under section 101 of this title.

Effective Date Of 2000 Amendment
Pub. L. 106-398, Sec. 1 [[div. A], title VII, Sec. 722(c)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A-186, provided that: "The amendments made by subsections (a)(1) and (b)(1) [amending this section and section 1079 of this title] shall take effect on October 1, 2001."

Effective Date Of 1997 Amendment
Section 731(a)(2) of Pub. L. 105-85 provided that: "The amendments made by paragraph (1) [amending this section] shall apply with respect to coverage of medical care for, and the provision of such care to, a member of the Armed Forces under section 1074(c) of title 10, United States Code, on and after the later of the following:

"(A) April 1, 1998.

"(B) The date on which the TRICARE program is in place in the service area of the member."

TMA Version - March 2009

Effective Date Of 1984 Amendment
Amendment by Pub. L. 98-525 effective Oct. 1, 1985, see section 1404 of Pub. L. 98-525, set out as an Effective Date note under section 520b of this title.

Effective Date Of 1980 Amendment
Amendment by Pub. L. 96-513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96-513, set out as a note under section 101 of this title.

Effective Date Of 1966 Amendment
For effective date of amendment by Pub. L. 89-614, see section 3 of Pub. L. 89-614, set out as a note under section 1071 of this title.

Delegation Of Functions
Authority of President under subsec. (b) to approve uniform rates of reimbursement for care provided in facilities operated by Secretary of Veterans Affairs delegated to Secretary of Veterans Affairs, see section 7(a) of Ex. Ord. No. 11609, July 22, 1971, 36 F.R. 13747, set out as a note under section 301 of Title 3, The President.

Smoking Cessation Program Under TRICARE
Pub. L. 110-417, [div. A], title VII, Sec. 713, Oct. 14, 2008, 122 Stat. 4503, provided that:

"(a) TRICARE Smoking Cessation Program.—Not later than 180 days after the date of the enactment of this Act [Oct. 14, 2008], the Secretary of Defense shall establish a smoking cessation program under the TRICARE program, to be made available to all beneficiaries under the TRICARE program, subject to subsection (b). The Secretary may prescribe such regulations as may be necessary to implement the program.

"(b) Exclusion for Medicare-Eligible Beneficiaries.—The smoking cessation program shall not be made available to medicare-eligible beneficiaries.

"(c) Elements.—The program shall include, at a minimum, the following elements:

(1) The availability, at no cost to the beneficiary, of pharmaceuticals used for smoking cessation, with a limitation on the availability of such pharmaceuticals to the national mail-order pharmacy program under the TRICARE program if appropriate.

(2) Counseling.

(3) Access to a toll-free quit line that is available 24 hours a day, 7 days a week.

(4) Access to printed and Internet web-based tobacco cessation material.

"(d) Chain of Command Involvement.—In establishing the program, the Secretary of Defense shall provide for involvement by officers in the chain of command of participants in the program who are on active duty.

"(e) Plan.—Not later than 90 days after the date of the enactment of this Act [Oct. 14, 2008], the Secretary shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a plan to implement the program.

"(f) Refund of Copayments.—

(1) Authority.—Under regulations prescribed by the Secretary of Defense, the Secretary may pay a refund to a medicare-eligible beneficiary otherwise excluded by this section, subject to the availability of appropriations specifically for such refunds, consisting of an amount up to the difference between—

(A) the amount the beneficiary pays for copayments for smoking cessation services described in subsection (c) during fiscal year 2009; and

TMA Version - March 2009

TMA Version - March 2009

(B) the amount the beneficiary would have paid during such fiscal year if the beneficiary had not been excluded under subsection (b) from the smoking cessation program under subsection (a).

(2) Copayments covered.—The refunds under paragraph (1) are available only for copayments paid by medicare-eligible beneficiaries during fiscal year 2009.

"(g) Report.—Not later than one year after the date of the enactment of this Act [Oct. 14, 2008], the Secretary shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report covering the following:

(1) The status of the program.

(2) The number of participants in the program.

(3) The cost of the program.

(4) The costs avoided that are attributed to the program.

(5) The success rates of the program compared to other nationally recognized smoking cessation programs.

(6) Findings regarding the success rate of participants in the program.

(7) Recommendations to modify the policies and procedures of the program.

(8) Recommendations concerning the future utility of the program.

"(h) Definitions.—In this section:

(1) TRICARE program.—The term 'TRICARE program' has the meaning provided by section 1072(7) of title 10, United States Code.

(2) Medicare-eligible.—The term 'medicare-eligible' has the meaning provided by section 1111(b) of title 10, United States Code."

Longitudinal Study On Traumatic Brain Injury Incurred By Members Of The Armed Forces In Operation Iraqi Freedom And Operation Enduring Freedom

Pub. L. 109-364, div. A, title VII, Sec. 721, Oct. 17, 2006, 120 Stat. 2294, provided that:

"(a) Study Required.—The Secretary of Defense shall conduct a longitudinal study on the effects of traumatic brain injury incurred by members of the Armed Forces serving in Operation Iraqi Freedom or Operation Enduring Freedom on the members who incur such an injury and their families.

"(b) Duration.—The study required by subsection (a) shall be conducted for a period of 15 years.

"(c) Elements.—The study required by subsection (a) shall specifically address the following:

"(1) The long-term physical and mental health effects of traumatic brain injuries incurred by members of the Armed Forces during service in Operation Iraqi Freedom or Operation Enduring Freedom.

"(2) The health care, mental health care, and rehabilitation needs of such members for such injuries after the completion of inpatient treatment through the Department of Defense, the Department of Veterans Affairs, or both.

"(3) The type and availability of long-term care rehabilitation programs and services within and outside the Department of Defense and the Department of Veterans Affairs for such members for such injuries, including community-based programs and services and in-home programs and services.

"(4) The effect on family members of a member incurring such an injury.

"(d) Consultation.—The Secretary of Defense shall conduct the study required by subsection (a) and prepare the reports required by subsection (e) in consultation with the Secretary of Veterans Affairs.

"(e) Periodic and Final Reports.—After the third, seventh, eleventh, and fifteenth years of the study required by subsection (a), the Secretary of Defense shall submit to Congress a

comprehensive report on the results of the study during the preceding years. Each report shall include the following:

"(1) Current information on the cumulative outcomes of the study.

"(2) Such recommendations as the Secretary of Defense and the Secretary of Veterans Affairs jointly consider appropriate based on the outcomes of the study, including recommendations for legislative, programmatic, or administrative action to improve long-term care and rehabilitation programs and services for members of the Armed Forces with traumatic brain injuries."

Standards And Tracking Of Access To Health Care Services For Wounded, Injured, Or Ill Servicemembers Returning To The United States From A Combat Zone

Pub. L. 109-364, div. A, title VII, Sec. 733, Oct. 17, 2006, 120 Stat. 2298, provided that:

"(a) Report on Uniform Standards for Access.—Not later than 90 days after the date of the enactment of this Act [Oct. 17, 2006], the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on uniform standards for the access of wounded, injured, or ill members of the Armed Forces to health care services in the United States following return from a combat zone.

"(b) Matters Covered.—The report required by subsection (a) shall describe in detail policies with respect to the following:

"(1) The access of wounded, injured, or ill members of the Armed Forces to emergency care.

"(2) The access of such members to surgical services.

"(3) Waiting times for referrals and consultations of such members by medical personnel, dental personnel, mental health specialists, and rehabilitative service specialists, including personnel and specialists with expertise in prosthetics and in the treatment of head, vision, and spinal cord injuries.

"(4) Waiting times of such members for acute care and for routine follow-up care.

"(c) Referral to Providers Outside Military Health Care System.—The Secretary shall require that health care services and rehabilitation needs of members described in subsection (a) be met through whatever means or mechanisms possible, including through the referral of members described in that subsection to health care providers outside the military health care system.

"(d) Uniform System for Tracking of Performance.—The Secretary shall establish a uniform system for tracking the performance of the military health care system in meeting the requirements for access of wounded, injured, or ill members of the Armed Forces to health care services described in subsection (a).

"(e) Reports.—

"(1) Tracking system.—Not later than 180 days after the date of the enactment of this Act [Oct. 17, 2006], the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the system established under subsection (d).

"(2) Access.—Not later than October 1, 2006, and each quarter thereafter during fiscal year 2007, the Secretary shall submit to such committees a report on the performance of the health care system in meeting the access standards described in the report required by subsection (a)."

Pilot Projects On Early Diagnosis And Treatment Of Post Traumatic Stress Disorder And Other Mental Health Conditions

Pub. L. 109-364, div. A, title VII, Sec. 741, Oct. 17, 2006, 120 Stat. 2304, provided that:

"(a) Pilot Projects Required.—The Secretary of Defense shall carry out not less than three pilot projects to evaluate the efficacy of various approaches to improving the capability of the

TMA Version - March 2009

TMA Version - March 2009

military and civilian health care systems to provide early diagnosis and treatment of post traumatic stress disorder and other mental health conditions.

"(b) Duration.—Any pilot project carried out under this section shall begin not later than October 1, 2007, and cease on September 30, 2008.

"(c) Pilot Project Requirements.—

"(1) Diagnostic and treatment approaches.—One of the pilot projects under this section shall be designed to evaluate effective diagnostic and treatment approaches for use by primary care providers in the military health care system in order to improve the capability of such providers to diagnose and treat post traumatic stress disorder.

"(2) National guard or reserve members.—

"(A) One of the pilot projects under this section shall be focused on members of the National Guard or Reserves who are located more than 40 miles from a military medical facility and who are served primarily by civilian community health resources.

"(B) The pilot project described in subparagraph (A) shall be designed to develop educational materials and other tools for use by members of the National Guard or Reserves who come into contact with other members of the National Guard or Reserves who may suffer from post traumatic stress disorder in order to encourage and facilitate early reporting and referral for treatment.

"(3) Outreach.—One of the pilot projects under this section shall be designed to provide outreach to the family members of the members of the Armed Forces on post traumatic stress disorder and other mental health conditions.

"(d) Evaluation of Pilot Projects.—The Secretary shall evaluate each pilot project carried out under this section in order to assess the effectiveness of the approaches taken under such pilot project—

"(1) to improve the capability of the military and civilian health care systems to provide early diagnosis and treatment of post traumatic stress disorder and other mental health conditions among members of the regular components of the Armed Forces, and among members of the National Guard and Reserves, who have returned from deployment; and

"(2) to provide outreach to the family members of the members of the Armed Forces described in paragraph (1) on post traumatic stress disorder and other mental health conditions among such members of the Armed Forces.

"(e) Report to Congress.—

"(1) Report required.—Not later than December 31, 2008, the Secretary shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the pilot projects carried out under this section.

"(2) Elements.—The report required by paragraph (1) shall include the following:

"(A) A description of each pilot project carried out under this section.

"(B) An assessment of the effectiveness of the approaches taken under each pilot project to improve the capability of the military and civilian health care systems to provide early diagnosis and treatment of post traumatic stress disorder and other mental health conditions among members of the Armed Forces.

"(C) Any recommendations for legislative or administrative action that the Secretary considers appropriate in light of the pilot projects, including recommendations on—

"(i) the training of health care providers in the military and civilian health care systems on early diagnosis and treatment of post traumatic stress disorder and other mental health conditions; and

"(ii) the provision of outreach on post traumatic stress disorder and other mental health conditions to members of the National Guard and Reserves who have returned from deployment.

"(D) A plan, in light of the pilot projects, for the improvement of the health care services provided to members of the Armed Forces in order to better assure the early diagnosis and treatment of post traumatic stress disorder and other mental health conditions among members of the Armed Forces, including a specific plan for outreach on post traumatic stress disorder and other mental health conditions to members of the National Guard and Reserves who have returned from deployment in order to facilitate and enhance the early diagnosis and treatment of post traumatic stress disorder and other mental health conditions among such members of the National Guard and Reserves."

Training Curricula For Family Caregivers On Care And Assistance For Members And Former Members Of The Armed Forces With Traumatic Brain Injury

Pub. L. 109-364, div. A, title VII, Sec. 744, Oct. 17, 2006, 120 Stat. 2308, provided that:

"(a) Traumatic Brain Injury Family Caregiver Panel.—

"(1) Establishment.—The Secretary of Defense shall establish a panel within the Department of Defense, to be known as the 'Traumatic Brain Injury Family Caregiver Panel', to develop coordinated, uniform, and consistent training curricula to be used in training family members in the provision of care and assistance to members and former members of the Armed Forces with traumatic brain injuries.

"(2) Members.—The Traumatic Brain Injury Family Caregiver Panel shall consist of 15 members appointed by the Secretary of Defense from among the following:

"(A) Physicians, nurses, rehabilitation therapists, and other individuals with an expertise in caring for and assisting individuals with traumatic brain injury, including persons who specialize in caring for and assisting individuals with traumatic brain injury incurred in combat.

"(B) Representatives of family caregivers or family caregiver associations.

"(C) Health and medical personnel of the Department of Defense and the Department of Veterans Affairs with expertise in traumatic brain injury and personnel and readiness representatives of the Department of Defense with expertise in traumatic brain injury.

"(D) Psychologists or other individuals with expertise in the mental health treatment and care of individuals with traumatic brain injury.

"(E) Experts in the development of training curricula.

"(F) Family members of members of the Armed Forces with traumatic brain injury.

"(G) Such other individuals the Secretary considers appropriate.

"(3) Consultation.—In establishing the Traumatic Brain Injury Family Caregiver Panel and appointing the members of the Panel, the Secretary of Defense shall consult with the Secretary of Veterans Affairs.

"(b) Development of Curricula.—

"(1) Development.—The Traumatic Brain Injury Family Caregiver Panel shall develop training curricula to be used by family members of members and former members of the Armed Forces on techniques, strategies, and skills for care and assistance for such members and former members with traumatic brain injury.

"(2) Scope of curricula.—The curricula shall—

"(A) be based on empirical research and validated techniques; and

"(B) shall provide for training that permits recipients to tailor caregiving to the unique circumstances of the member or former member of the Armed Forces receiving care.

"(3) Particular requirements.—In developing the curricula, the Traumatic Brain Injury Family Caregiver Panel shall—

"(A) specify appropriate training commensurate with the severity of traumatic brain injury; and

TMA Version - March 2009

TMA Version - March 2009

"(B) identify appropriate care and assistance to be provided for the degree of severity of traumatic brain injury for caregivers of various levels of skill and capability.

"(4) Use of existing materials.—In developing the curricula, the Traumatic Brain Injury Family Caregiver Panel shall use and enhance any existing training curricula, materials, and resources applicable to such curricula as the Panel considers appropriate.

"(5) Deadline for development.—The Traumatic Brain Injury Family Caregiver Panel shall develop the curricula not later than one year after the date of the enactment of this Act [Oct. 17, 2006].

"(c) Dissemination of Curricula.—

"(1) Dissemination mechanisms.—The Secretary of Defense shall develop mechanisms for the dissemination of the curricula developed under subsection (b)—

"(A) to health care professionals who treat or otherwise work with members and former members of the Armed Forces with traumatic brain injury;

"(B) to family members affected by the traumatic brain injury of such members and former members; and

"(C) to other care or support personnel who may provide service to members or former members affected by traumatic brain injury.

"(2) Use of existing mechanisms.—In developing such mechanisms, the Secretary may use and enhance existing mechanisms, including the Military Severely Injured Center (authorized under section 564 of this Act [10 U.S.C. 113 note]) and the programs for service to severely injured members established by the military departments.

"(d) Report.—Not later than one year after the development of the curricula required by subsection (b), the Secretary of Defense and the Secretary of Veterans Affairs shall submit to the Committees on Armed Services and Veterans Affairs of the Senate and the House of Representatives a report on the following:

"(1) The actions undertaken under this section.

"(2) Recommendations for the improvement or updating of training curriculum developed and provided under this section."

Pilot Projects On Early Diagnosis And Treatment Of Post Traumatic Stress Disorder And Other Mental Health Conditions

Pub. L. 109-163, div. A, title VII, Sec. 722, Jan. 6, 2006, 119 Stat. 3347, provided that:

"(a) Pilot Projects Required.—The Secretary of Defense may carry out pilot projects to evaluate the efficacy of various approaches to improving the capability of the military and civilian health care systems to provide early diagnosis and treatment of post traumatic stress disorder (PTSD) and other mental health conditions.

"(b) Pilot Project Requirements.—

"(1) Mobilization-demobilization facility.—

"(A) In general.—A pilot project under subsection (a) may be carried out at a military medical facility at a large military installation at which the mobilization or demobilization of members of the Armed Forces occurs.

"(B) Elements.—The pilot project under this paragraph shall be designed to evaluate and produce effective diagnostic and treatment approaches for use by primary care providers in the military health care system in order to improve the capability of such providers to diagnose and treat post traumatic stress disorder in a manner that avoids the referral of patients to specialty care by a psychiatrist or other mental health professional.

"(2) National guard or reserve facility.—

"(A) In general.—A pilot project under subsection (a) may be carried out at the location of a National Guard or Reserve unit or units that are located more than 40 miles from a

military medical facility and whose personnel are served primarily by civilian community health resources.

"(B) Elements.—The pilot project under this paragraph shall be designed—

"(i) to evaluate approaches for providing evidence-based clinical information on post traumatic stress disorder to civilian primary care providers; and

"(ii) to develop educational materials and other tools for use by members of the National Guard or Reserve who come into contact with other members of the National Guard or Reserve who may suffer from post traumatic stress disorder in order to encourage and facilitate early reporting and referral for treatment.

"(c) Report.—Not later than September 1, 2006, the Secretary shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the progress toward identifying pilot projects to be carried out under this section. To the extent possible the report shall include a description of each such pilot project, including the location of the pilot projects under paragraphs (1) and (2) of subsection (b), and the scope and objectives of each such pilot project."

Cooperative Outreach To Members And Former Members Of The Naval Service Exposed To Environmental Factors Related To Sarcoidosis

Pub. L. 109-163, div. A, title VII, Sec. 746, Jan. 6, 2006, 119 Stat. 3362, provided that:

"(a) Outreach Program Required.—The Secretary of the Navy, in coordination with the Secretary of Veterans Affairs, shall conduct an outreach program intended to contact as many members and former members of the naval service as possible who, in connection with service aboard Navy ships, may have been exposed to aerosolized particles resulting from the removal of nonskid coating used on those ships.

"(b) Purposes of Outreach Program.—The purposes of the outreach program are as follows:

"(1) To develop additional data for use in subsequent studies aimed at determining a causative link between sarcoidosis and military service.

"(2) To inform members and former members identified in subsection (a) of the findings of Navy studies identifying an association between service aboard certain naval ships and sarcoidosis.

"(3) To provide information to assist members and former members identified in subsection (a) in getting medical evaluations to help clarify linkages between their disease and their service aboard Navy ships.

"(4) To provide the Department of Veterans Affairs with data and information for the effective evaluation of veterans who may seek care for sarcoidosis.

"(c) Implementation and Report.—Not later than six months after the date of the enactment of this Act [Jan. 6, 2006], the Secretary of the Navy shall begin the outreach program. Not later than one year after beginning the program, the Secretary shall provide to the Committees on Armed Services of the Senate and the House of Representatives and the Committees on Veterans Affairs of the Senate and House of Representatives a report on the results of the outreach program."

Medical Readiness Plan And Joint Medical Readiness Oversight Committee

Pub. L. 108-375, div. A, title VII, Sec. 731, Oct. 28, 2004, 118 Stat. 1993, as amended by Pub. L. 109-163, div. A, title V, Sec. 515(h), Jan. 6, 2006, 119 Stat. 3237; Pub. L. 109-364, div. A, title X, Sec. 1071(g)(8), Oct. 17, 2006, 120 Stat. 2402, provided that:

"(a) Requirement for Plan.—The Secretary of Defense shall develop a comprehensive plan to improve medical readiness, and Department of Defense tracking of the health status, of members of the Armed Forces throughout their service in the Armed Forces, and to strengthen medical readiness and tracking before, during, and after deployment of members of the Armed

TMA Version - March 2009

TMA Version - March 2009

Forces overseas. The matters covered by the comprehensive plan shall include all elements that are described in this subtitle [subtitle D [Secs. 731 to 740] of title VII of Pub. L. 108-375, enacting sections 1073b and 1092a of this title and enacting provisions set out as notes under this section and sections 1073b, 1074f, and 1092a of this title] and the amendments made by this subtitle and shall comply with requirements in law.

"(b) Joint Medical Readiness Oversight Committee.—

"(1) Establishment.—The Secretary of Defense shall establish a Joint Medical Readiness Oversight Committee.

"(2) Composition.—The members of the Committee are as follows:

"(A) The Under Secretary of Defense for Personnel and Readiness, who shall chair the Committee.

"(B) The Vice Chief of Staff of the Army, the Vice Chief of Naval Operations, the Vice Chief of Staff of the Air Force, and the Assistant Commandant of the Marine Corp.

"(C) The Assistant Secretary of Defense for Health Affairs.

"(D) The Assistant Secretary of Defense for Reserve Affairs.

"(E) The Surgeon General of each of the Army, the Navy, and the Air Force.

"(F) The Assistant Secretary of the Army for Manpower and Reserve Affairs.

"(G) The Assistant Secretary of the Navy for Manpower and Reserve Affairs.

"(H) The Assistant Secretary of the Air Force for Manpower, Reserve Affairs, Installations, and Environment.

"(I) The Chief of the National Guard Bureau.

"(J) The Chief of Army Reserve.

"(K) The Chief of Navy Reserve.

"(L) The Chief of Air Force Reserve.

"(M) The Commander, Marine Corps Reserve.

"(N) The Director of the Defense Manpower Data Center.

"(O) A representative of the Department of Veterans Affairs designated by the Secretary of Veterans Affairs.

"(3) Duties.—The duties of the Committee are as follows:

"(A) To advise the Secretary of Defense on the medical readiness and health status of the members of the active and reserve components of the Armed Forces.

"(B) To advise the Secretary of Defense on the compliance of the Armed Forces with the medical readiness tracking and health surveillance policies of the Department of Defense.

"(C) To oversee the development and implementation of the comprehensive plan required by subsection (a) and the actions required by this subtitle and the amendments made by this subtitle, including with respect to matters relating to—

"(i) the health status of the members of the reserve components of the Armed Forces;

"(ii) accountability for medical readiness;

"(iii) medical tracking and health surveillance;

"(iv) declassification of information on environmental hazards;

"(v) postdeployment health care for members of the Armed Forces; and

"(vi) compliance with Department of Defense and other applicable policies on blood serum repositories.

"(D) To ensure unity and integration of efforts across functional and organizational lines within the Department of Defense with regard to medical readiness tracking and health surveillance of members of the Armed Forces.

"(E) To establish and monitor compliance with the medical readiness standards that are applicable to members and those that are applicable to units.

"(F) To improve continuity of care in coordination with the Secretary of Veterans Affairs, for members of the Armed Forces separating from active service with service-connected medical conditions.

"(4) First meeting.—The first meeting of the Committee shall be held not later than 120 days after the date of the enactment of this Act [Oct. 28, 2004].

"(c) Annual Report.—

"(1) In general.—In addition to the duties described in subsection (b)(3), the Committee shall prepare and submit to the Secretary of Defense and to the Committees on Armed Services of the Senate and the House of Representatives, not later than February 1 of each year, a report on—

"(A) the health status and medical readiness of the members of the Armed Forces, including the members of reserve components, based on the comprehensive plan required under subsection (a) and the actions required by this subtitle and the amendments made by this subtitle; and

"(B) compliance with Department of Defense policies on medical readiness tracking and health surveillance.

"(2) Opportunity for comment.—Each year, before the Committee submits to Congress the report required under paragraph (1), the Secretary of Defense shall provide an opportunity for representatives of veterans and military health advocacy organizations, and others the Secretary of Defense considers appropriate, to comment on the report. The report submitted to Congress shall include a summary of the comments received and the Secretary's response to them."

Accountability For Medical Readiness Of Individuals And Units Of The Reserve Components

Pub. L. 108-375, div. A, title VII, Sec. 732(b), Oct. 28, 2004, 118 Stat. 1997, provided that:

"(1) Policy.—The Secretary of Defense shall take measures, in addition to those required by section 1074f of title 10, United States Code, to ensure that individual members and commanders of reserve component units fulfill their responsibilities and meet the requirements for medical and dental readiness of members of the units. Such measures may include—

"(A) requiring more frequent health assessments of members than is required by section 1074f(b) of title 10, United States Code, with an objective of having every member of the Selected Reserve receive a health assessment as specified in section 1074f of such title not less frequently than once every two years; and

"(B) providing additional support and information to commanders to assist them in improving the health status of members of their units.

"(2) Review and followup care.—The measures under this subsection shall provide for review of the health assessments under paragraph (1) by a medical professional and for any followup care and treatment that is otherwise authorized for medical or dental readiness.

"(3) Modification of predeployment health assessment survey.—In carrying out paragraph (1), the Secretary shall—

"(A) to the extent practicable, modify the predeployment health assessment survey to bring such survey into conformity with the detailed postdeployment health assessment survey in use as of October 1, 2004; and

"(B) ensure the use of the predeployment health assessment survey, as so modified, for predeployment health assessments after that date."

TMA Version - March 2009

TMA Version - March 2009

Uniform Policy On Deferral Of Medical Treatment Pending Deployment To Theaters Of Operations

Pub. L. 108-375, div. A, title VII, Sec. 732(c), Oct. 28, 2004, 118 Stat. 1997, provided that:

"(1) Requirement for policy.—The Secretary of Defense shall prescribe, for uniform applicability throughout the Armed Forces, a policy on deferral of medical treatment of members pending deployment.

"(2) Content.—The policy prescribed under paragraph (1) may specify the following matters:

"(A) The circumstances under which treatment for medical conditions may be deferred to be provided within a theater of operations in order to prevent delay or other disruption of a deployment to that theater.

"(B) The circumstances under which medical conditions are to be treated before deployment to that theater."

Medical Care And Tracking And Health Surveillance In The Theater Of Operations

Pub. L. 108-375, div. A, title VII, Sec. 734, Oct. 28, 2004, 118 Stat. 1998, provided that:

"(a) Recordkeeping Policy.—The Secretary of Defense shall prescribe a policy that requires the records of all medical care provided to a member of the Armed Forces in a theater of operations to be maintained as part of a complete health record for the member.

"(b) In-Theater Medical Tracking and Health Surveillance.—

"(1) Requirement for evaluation.—The Secretary of Defense shall evaluate the system for the medical tracking and health surveillance of members of the Armed Forces in theaters of operations and take such actions as may be necessary to improve the medical tracking and health surveillance.

"(2) Report.—Not later than one year after the date of the enactment of this Act [Oct. 28, 2004], the Secretary of Defense shall submit a report on the actions taken under paragraph (1) to the Committees on Armed Services of the Senate and the House of Representatives. The report shall include the following matters:

"(A) An analysis of the strengths and weaknesses of the medical tracking system administered under section 1074f of title 10, United States Code.

"(B) An analysis of the efficacy of health surveillance systems as a means of detecting—

"(i) any health problems (including mental health conditions) of members of the Armed Forces contemporaneous with the performance of the assessment under the system; and

"(ii) exposures of the assessed members to environmental hazards that potentially lead to future health problems.

"(C) An analysis of the strengths and weaknesses of such medical tracking and surveillance systems as a means for supporting future research on health issues.

"(D) Recommended changes to such medical tracking and health surveillance systems.

"(E) A summary of scientific literature on blood sampling procedures used for detecting and identifying exposures to environmental hazards.

"(F) An assessment of whether there is a need for changes to regulations and standards for drawing blood samples for effective tracking and health surveillance of the medical conditions of personnel before deployment, upon the end of a deployment, and for a followup period of appropriate length.

"(c) Plan To Obtain Health Care Records From Allies.—The Secretary of Defense shall develop a plan for obtaining all records of medical treatment provided to members of the Armed Forces by allies of the United States in Operation Enduring Freedom and Operation Iraqi Freedom. The plan shall specify the actions that are to be taken to obtain all such records.

"(d) Policy on In-Theater Personnel Locator Data.—Not later than one year after the date of the enactment of this Act [Oct. 28, 2004], the Secretary of Defense shall prescribe a Department of

Defense policy on the collection and dissemination of in-theater individual personnel location data."

Declassification Of Information On Exposures To Environmental Hazards

Pub. L. 108-375, div. A, title VII, Sec. 735, Oct. 28, 2004, 118 Stat. 1999, provided that:

"(a) Requirement for Review.—The Secretary of Defense shall review and, as determined appropriate, revise the classification policies of the Department of Defense with a view to facilitating the declassification of data that is potentially useful for the monitoring and assessment of the health of members of the Armed Forces who have been exposed to environmental hazards during deployments overseas, including the following data:

"(1) In-theater injury rates.

"(2) Data derived from environmental surveillance.

"(3) Health tracking and surveillance data.

"(b) Consultation With Commanders of Theater Combatant Commands.—The Secretary shall, to the extent that the Secretary considers appropriate, consult with the senior commanders of the in-theater forces of the combatant commands in carrying out the review and revising policies under subsection (a)."

Uniform Policy For Meeting Mobilization-Related Medical Care Needs At Military Installations

Pub. L. 108-375, div. A, title VII, Sec. 737, Oct. 28, 2004, 118 Stat. 2000, provided that:

"(a) Health Care at Mobilization Installations.—The Secretary of Defense shall take such steps as necessary, including through the uniform policy established under subsection (c), to ensure that anticipated health care needs of members of the Armed Forces at mobilization installations can be met at those installations. Such steps may, within authority otherwise available to the Secretary, include the following with respect to any such installation:

"(1) Arrangements for health care to be provided by the Secretary of Veterans Affairs.

"(2) Procurement of services from local health care providers.

"(3) Temporary employment of health care personnel to provide services at such installation.

"(b) Mobilization Installations.—For purposes of this section, the term 'mobilization installation' means a military installation at which members of the Armed Forces, in connection with a contingency operation or during a national emergency—

"(1) are mobilized;

"(2) are deployed; or

"(3) are redeployed from a deployment location.

"(c) Requirement for Regulations.—

"(1) Policy on implementation.—The Secretary of Defense shall by regulation establish a policy for the implementation of subsection (a) throughout the Department of Defense.

"(2) Identification and analysis of needs.—As part of the policy prescribed under paragraph (1), the Secretary shall require the Secretary of each military department, with respect to each mobilization installation under the jurisdiction of that Secretary, to identify and analyze the anticipated health care needs at that installation with respect to members of the Armed Forces who may be expected to mobilize or deploy or redeploy at that installation as described in subsection (b)(1). Such identification and analysis shall be carried out so as to be completed before the arrival of such members at the installation.

"(3) Response to needs.—The policy established by the Secretary of Defense under paragraph (1) shall require that, based on the results of the identification and analysis under paragraph (2), the Secretary of the military department concerned shall determine how to expeditiously and effectively respond to those anticipated health care needs that

TMA Version - March 2009

TMA Version - March 2009

cannot be met within the resources otherwise available at that installation, in accordance with subsection (a).

"(4) Implementation of authority.—In implementing the policy established under paragraph (1) at any installation, the Secretary of the military department concerned shall ensure that the commander of the installation, and the officers and other personnel superior to that commander in that commander's chain of command, have appropriate authority and responsibility for such implementation.

"(d) Policy.—The Secretary of Defense shall ensure—

"(1) that the policy prescribed under subsection (c) is carried out with respect to any mobilization installation with the involvement of all agencies of the Department of Defense that have responsibility for management of the installation and all organizations of the Department that have command authority over any activity at the installation; and

"(2) that such policy is implemented on a uniform basis throughout the Department of Defense."

Full Implementation Of Medical Readiness Tracking And Health Surveillance Program And Force Health Protection And Readiness Program

Pub. L. 108-375, div. A, title VII, Sec. 738, Oct. 28, 2004, 118 Stat. 2001, provided that:

"(a) Implementation at All Levels.—The Secretary of Defense, in conjunction with the Secretaries of the military departments, shall take such actions as are necessary to ensure that the Army, Navy, Air Force, and Marine Corps fully implement at all levels—

"(1) the Medical Readiness Tracking and Health Surveillance Program under this title [see Tables for classification] and the amendments made by this title; and

"(2) the Force Health Protection and Readiness Program of the Department of Defense (relating to the prevention of injury and illness and the reduction of disease and noncombat injury threats).

"(b) Action Official.—The Secretary of Defense may act through the Under Secretary of Defense for Personnel and Readiness in carrying out subsection (a)."

Internet Accessibility Of Health Assessment Information For Members Of The Armed Forces

Pub. L. 108-375, div. A, title VII, Sec. 739(b), Oct. 28, 2004, 118 Stat. 2002, provided that: "Not later than one year after the date of the enactment of this Act [Oct. 28, 2004], the Chief Information Officer of each military department shall ensure that the online portal website of that military department includes the following information relating to health assessments:

"(1) Information on the policies of the Department of Defense and the military department concerned regarding predeployment and postdeployment health assessments, including policies on the following matters:

"(A) Health surveys.

"(B) Physical examinations.

"(C) Collection of blood samples and other tissue samples.

"(2) Procedural information on compliance with such policies, including the following information:

"(A) Information for determining whether a member is in compliance.

"(B) Information on how to comply.

"(3) Health assessment surveys that are either—

"(A) web-based; or

"(B) accessible (with instructions) in printer-ready form by download."

Inclusion Of Dental Care

Pub. L. 108-375, div. A, title VII, Sec. 740, as added by Pub. L. 109-163, div. A, title VII, Sec. 745(a), Jan. 6, 2006, 119 Stat. 3362, provided that: "For purposes of the plan, this subtitle [subtitle D (Secs. 731-740) of title VII of div. A of Pub. L. 108-375, enacting sections 1073b and 1092a of this title and enacting provisions set out as notes under this section and sections 1073b, 1074f, and 1092a of this title], and the amendments made by this subtitle, references to medical readiness, health status, and health care shall be considered to include dental readiness, dental status, and dental care."

Limitation On Fiscal Year 2004 Outlays For Temporary Reserve Health Care Programs

Pub. L. 108-136, div. A, title VII, Sec. 706, Nov. 24, 2003, 117 Stat. 1529, as amended by Pub. L. 110-181, div. A, title X, Sec. 1063(g)(1), Jan. 28, 2008, 122 Stat. 323, provided that:

"(a) Outlay Limitation.—In the administration of the temporary Reserve health care programs, the Secretary of Defense shall carry out those programs so as to limit the total Department of Defense expenditures under those programs during fiscal year 2004 to an amount not in excess $400,000,000.

"(b) Continuity of Care.—In the administration of the temporary Reserve health care programs, the Secretary of Defense shall carry out the implementation and termination of those programs so as to ensure the least amount of disruption to the continuity of care for persons provided care under those programs.

"(c) Temporary Reserve Health Care Programs.—For purposes of this section, the term 'temporary Reserve health care programs' means the following:

"(1) The program under [former] section 1076b of title 10, United States Code, as amended by section 702.

"(2) The program under section 1074(d) of title 10, United States Code, as amended by section 703.

"(3) The program under section 704 [former 10 U.S.C. 1145 note]."

Disclosure Of Information On Project 112 To Department Of Veterans Affairs

Pub. L. 107-314, div. A, title VII, Sec. 709, Dec. 2, 2002, 116 Stat. 2586, provided that:

"(a) Plan for Disclosure of Information.—Not later than 90 days after the date of the enactment of this Act [Dec. 2, 2002], the Secretary of Defense shall submit to Congress and the Secretary of Veterans Affairs a comprehensive plan for the review, declassification, and submittal to the Department of Veterans Affairs of all records and information of the Department of Defense on Project 112 that are relevant to the provision of benefits by the Secretary of Veterans Affairs to members of the Armed Forces who participated in that project.

"(b) Plan Requirements.—(1) The records and information covered by the plan under subsection (a) shall be the records and information necessary to permit the identification of members of the Armed Forces who were or may have been exposed to chemical or biological agents as a result of Project 112.

"(2) The plan shall provide for completion of all activities contemplated by the plan not later than one year after the date of the enactment of this Act [Dec. 2, 2002].

"(c) Identification of Other Projects or Tests.—The Secretary of Defense also shall work with veterans and veterans service organizations to identify other projects or tests conducted by the Department of Defense that may have exposed members of the Armed Forces to chemical or biological agents.

"(d) GAO Reports on Plan and Implementation.—(1) Not later than 30 days after submission of the plan under subsection (a), the Comptroller General shall submit to Congress a report reviewing the plan. The report shall include an examination of whether adequate resources have been committed, the timeliness of the information to be released to the Department of

TMA Version - March 2009

TMA Version - March 2009

Veterans Affairs, and the adequacy of the procedures to notify affected veterans of potential exposure.

"(2) Not later than six months after implementation of the plan begins, the Comptroller General shall submit to Congress a report evaluating the progress in the implementation of the plan.

"(e) DOD Reports on Implementation.—(1) Not later than six months after the date of the enactment of this Act [Dec. 2, 2002], and upon completion of all activities contemplated by the plan under subsection (a), the Secretary of Defense shall submit to Congress and the Secretary of Veterans Affairs a report on progress in the implementation of the plan.

"(2) Each report under paragraph (1) shall include, for the period covered by such report—

"(A) the number of records reviewed;

"(B) each test, if any, under Project 112 identified during such review;

"(C) for each test so identified—

"(i) the test name;

"(ii) the test objective;

"(iii) the chemical or biological agent or agents involved; and

"(iv) the number of members of the Armed Forces, and civilian personnel, potentially effected by such test; and

"(D) the extent of submittal of records and information to the Secretary of Veterans Affairs under this section.

"(f) Project 112.—For purposes of this section, Project 112 refers to the chemical and biological weapons vulnerability-testing program of the Department of Defense conducted by the Deseret Test Center from 1963 to 1969. The project included the Shipboard Hazard and Defense (SHAD) project of the Navy."

Health Care At Former Uniformed Services Treatment Facilities For Active Duty Members Stationed At Certain Remote Locations

Pub. L. 106-65, div. A, title VII, Sec. 706, Oct. 5, 1999, 113 Stat. 684, as amended by Pub. L. 106-398, Sec. 1 [[div. A], title VII, Sec. 722(a)(3)], Oct. 30, 2000, 114 Stat. 1654, 1654A-185, provided that:

"(a) Authority.—Health care may be furnished by a designated provider pursuant to any contract entered into by the designated provider under section 722(b) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104-201; 10 U.S.C. 1073 note) to eligible members who reside within the service area of the designated provider.

"(b) Eligibility.—A member of the uniformed services (as defined in section 1072(1) of title 10, United States Code) is eligible for health care under subsection (a) if the member is a member described in section 731(c) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105-85; 111 Stat. 1811; 10 U.S.C. 1074 note).

"(c) Applicable Policies.—In furnishing health care to an eligible member under subsection (a), a designated provider shall adhere to the Department of Defense policies applicable to the furnishing of care under the TRICARE Prime Remote program, including coordinating with uniformed services medical authorities for hospitalizations and all referrals for specialty care.

"(d) Reimbursement Rates.—The Secretary of Defense, in consultation with the designated providers, shall prescribe reimbursement rates for care furnished to eligible members under subsection (a). The rates prescribed for health care may not exceed the amounts allowable under the TRICARE Standard plan for the same care."

Temporary Authority For Managed Care Expansion To Members On Active Duty At Certain Remote Locations; "TRICARE Program" And "TRICARE Prime Plan" Defined

Pub. L. 105-85, div. A, title VII, Sec. 731(b)-(f), Nov. 18, 1997, 111 Stat. 1811, 1812, as amended by Pub. L. 106-398, Sec. 1 [[div. A], title VII, Sec. 722(a)(2), (b)(2)], Oct. 30, 2000, 114 Stat. 1654, 1654A-185, 1654A-186, provided that:

"(b) Temporary Authority for Managed Care Expansion to Members on Active Duty at Certain Remote Locations.—(1) A member of the uniformed services described in subsection (c) is entitled to receive care under the Civilian Health and Medical Program of the Uniformed Services. In connection with such care, the Secretary of Defense shall waive the obligation of the member to pay a deductible, copayment, or annual fee that would otherwise be applicable under that program for care provided to the members under the program. A dependent of the member, as described in subparagraph (A), (D), or (I) of section 1072(2) of title 10, United States Code, who is residing with the member shall have the same entitlement to care and to waiver of charges as the member.

"(2) A member or dependent of the member, as the case may be, who is entitled under paragraph (1) to receive health care services under CHAMPUS shall receive such care from a network provider under the TRICARE program if such a provider is available in the service area of the member.

"(3) Paragraph (1) shall take effect on the date of the enactment of this Act [Nov. 18, 1997] and shall expire with respect to a member upon the later of the following:

"(A) The date that is one year after the date of the enactment of this Act.

"(B) The date on which the amendments made by subsection (a) [amending this section] apply with respect to the coverage of medical care for, and provision of such care to, the member.

"(4) The Secretary of Defense shall consult with the other administering Secretaries in the administration of this subsection.

"(c) Eligible Members.—A member referred to in subsection (b) is a member of the uniformed services on active duty who—

"(1) receives a duty assignment described in subsection (d); and

"(2) pursuant to the assignment of such duty, resides at a location that is more than 50 miles, or approximately one hour of driving time, from—

"(A) the nearest health care facility of the uniformed services adequate to provide the needed care under chapter 55 of title 10, United States Code; and

"(B) the nearest source of the needed care that is available to the member under the TRICARE Prime plan.

"(d) Duty Assignments Covered.—A duty assignment referred to in subsection (c)(1) means any of the following:

"(1) Permanent duty as a recruiter.

"(2) Permanent duty at an educational institution to instruct, administer a program of instruction, or provide administrative services in support of a program of instruction for the Reserve Officers' Training Corps.

"(3) Permanent duty as a full-time adviser to a unit of a reserve component of the uniformed services.

"(4) Any other permanent duty designated by the Secretary concerned for purposes of this subsection.

"(e) Payment of Costs.—Deductibles, copayments, and annual fees not payable by a member by reason of a waiver granted under the regulations prescribed pursuant to subsection (b) shall be paid out of funds available to the Department of Defense for the Defense Health Program.

TMA Version - March 2009

TMA Version - March 2009

"(f) Definitions.—In this section [amending this section and enacting provisions set out as a note above]:

"(1) The term 'TRICARE program' has the meaning given that term in section 1072(7) of title 10, United States Code.

"(2) The term 'TRICARE Prime plan' means a plan under the TRICARE program that provides for the voluntary enrollment of persons for the receipt of health care services to be furnished in a manner similar to the manner in which health care services are furnished by health maintenance organizations.

"(3) The terms 'uniformed services' and 'administering Secretaries' have the meanings given those terms in section 1072 of title 10, United States Code."

[Pub. L. 106-398, Sec. 1 [[div. A], title VII, Sec. 722(c)(2), (3)], Oct. 30, 2000, 114 Stat. 1654, 1654A-186, provided that:

["(2) The amendments made by subsection (a)(2) [amending section 731(b)-(f) of Pub. L. 105-85, set out above], with respect to members of the uniformed services, and the amendments made by subsection (b)(2) [amending section 731(b)-(f) of Pub. L. 105-85, set out above], with respect to dependents of members, shall take effect on the date of the enactment of this Act [Oct. 30, 2000] and shall expire with respect to a member or the dependents of a member, respectively, on the later of the following:

["(A) The date that is one year after the date of the enactment of this Act.

["(B) The date on which the policies required by the amendments made by subsection (a)(1) or (b)(1) [amending this section and section 1079 of this title] are implemented with respect to the coverage of medical care for and provision of such care to the member or dependents, respectively.

["(3) Section 731(b)(3) of Public Law 105-85 [set out above] does not apply to a member of the Coast Guard, the National Oceanic and Atmospheric Administration, or the Commissioned Corps of the Public Health Service, or to a dependent of a member of a uniformed service."]

Independent Research Regarding Gulf War Syndrome

Section 743 of Pub. L. 104-201 provided that:

"(a) Definitions.—For purposes of this section:

"(1) The term 'Gulf War service' means service on active duty as a member of the Armed Forces in the Southwest Asia theater of operations during the Persian Gulf War.

"(2) The term 'Gulf War syndrome' means the complex of illnesses and symptoms commonly known as Gulf War syndrome.

"(3) The term 'Persian Gulf War' has the meaning given that term in section 101(33) of title 38, United States Code.

"(b) Research.—The Secretary of Defense shall provide, by contract, grant, or other transaction, for scientific research to be carried out by entities independent of the Federal Government on possible causal relationships between Gulf War syndrome and—

"(1) the possible exposures of members of the Armed Forces to chemical warfare agents or other hazardous materials during Gulf War service; and

"(2) the use by the Department of Defense during the Persian Gulf War of combinations of various inoculations and investigational new drugs.

"(c) Procedures for Awarding Grants.—The Secretary shall prescribe the procedures to be used to make research awards under subsection (b). The procedures shall—

"(1) include a comprehensive, independent peer-review process for the evaluation of proposals for scientific research that are submitted to the Department of Defense; and

"(2) provide for the final selection of proposals for award to be based on the scientific merit and program relevance of the proposed research.

"(d) Availability of Funds.—Of the amount authorized to be appropriated under section 301(21) [110 Stat. 2475] for defense medical programs, $10,000,000 is available for research under subsection (b)."

Persian Gulf Illness

Sections 761, 762, and 770 of title VII of Pub. L. 105-85 provided that:

"SEC. 761. DEFINITIONS.

"For purposes of this subtitle [subtitle F (Secs. 761-771) of title VII of Pub. L. 105-85, enacting sections 1074e, 1074f, and 1107 of this title and this note]:

"(1) The term 'Gulf War illness' means any one of the complex of illnesses and symptoms that might have been contracted by members of the Armed Forces as a result of service in the Southwest Asia theater of operations during the Persian Gulf War.

"(2) The term 'Persian Gulf War' has the meaning given that term in section 101 of title 38, United States Code.

"(3) The term 'Persian Gulf veteran' means an individual who served on active duty in the Armed Forces in the Southwest Asia theater of operations during the Persian Gulf War.

"(4) The term 'contingency operation' has the meaning given that term in section 101(a) of title 10, United States Code, and includes a humanitarian operation, peacekeeping operation, or similar operation.

"SEC. 762. PLAN FOR HEALTH CARE SERVICES FOR PERSIAN GULF VETERANS.

"(a) Plan Required.—The Secretary of Defense and the Secretary of Veterans Affairs, acting jointly, shall prepare a plan to provide appropriate health care to Persian Gulf veterans (and dependents eligible by law) who suffer from a Gulf War illness.

"(b) Contents of Plan.—In preparing the plan, the Secretaries shall—

"(1) use the presumptions of service connection and illness specified in paragraphs (1) and (2) of section 721(d) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103-337; 10 U.S.C. 1074 note) to determine the Persian Gulf veterans (and dependents eligible by law) who should be covered by the plan;

"(2) consider the need and methods available to provide health care services to Persian Gulf veterans who are no longer on active duty in the Armed Forces, such as Persian Gulf veterans who are members of the reserve components and Persian Gulf veterans who have been separated from the Armed Forces; and

"(3) estimate the costs to the Government of providing full or partial health care services under the plan to covered Persian Gulf veterans (and covered dependents eligible by law).

"(c) Follow-up Treatment.—The plan required by subsection (a) shall specifically address the measures to be used to monitor the quality, appropriateness, and effectiveness of, and patient satisfaction with, health care services provided to Persian Gulf veterans after their initial medical examination as part of registration in the Persian Gulf War Veterans Health Registry or the Comprehensive Clinical Evaluation Program.

"(d) Submission of Plan.—Not later than March 1, 1998, the Secretaries shall submit to Congress the plan required by subsection (a).

"SEC. 770. PERSIAN GULF ILLNESS CLINICAL TRIALS PROGRAM.

"(a) Findings.—Congress finds the following:

"(1) There are many ongoing studies that investigate risk factors which may be associated with the health problems experienced by Persian Gulf veterans; however, there have been

TMA Version - March 2009

TMA Version - March 2009

no studies that examine health outcomes and the effectiveness of the treatment received by such veterans.

"(2) The medical literature and testimony presented in hearings on Gulf War illnesses indicate that there are therapies, such as cognitive behavioral therapy, that have been effective in treating patients with symptoms similar to those seen in many Persian Gulf veterans.

"(b) Establishment of Program.—The Secretary of Defense and the Secretary of Veterans Affairs, acting jointly, shall establish a program of cooperative clinical trials at multiple sites to assess the effectiveness of protocols for treating Persian Gulf veterans who suffer from ill-defined or undiagnosed conditions. Such protocols shall include a multidisciplinary treatment model, of which cognitive behavioral therapy is a component.

"(c) Funding.—Of the funds authorized to be appropriated in section 201(1) [111 Stat. 1655] for research, development, test, and evaluation for the Army, the sum of $4,500,000 shall be available for program element 62787A (medical technology) in the budget of the Department of Defense for fiscal year 1998 to carry out the clinical trials program established pursuant to subsection (b)."

Pub. L. 103-337, div. A, title VII, Secs. 721, 722, Oct. 5, 1994, 108 Stat. 2804, 2807, as amended by Pub. L. 104-106, div. A, title XV, Sec. 1504(a)(4), (5), Feb. 10, 1996, 110 Stat. 513; Pub. L. 108-136, div. A, title X, Sec. 1031(e), Nov. 24, 2003, 117 Stat. 1604, provided that:

"SEC. 721. PROGRAMS RELATED TO DESERT STORM MYSTERY ILLNESS.

"(a) Outreach Program to Persian Gulf Veterans and Families.—The Secretary of Defense shall institute a comprehensive outreach program to inform members of the Armed Forces who served in the Southwest Asia theater of operations during the Persian Gulf Conflict, and the families of such members, of illnesses that may result from such service. The program shall be carried out through both medical and command channels, as well as any other means the Secretary considers appropriate. Under the program, the Secretary shall—

"(1) inform such individuals regarding—

"(A) common disease symptoms reported by Persian Gulf veterans that may be due to service in the Southwest Asia theater of operations;

"(B) blood donation policy;

"(C) available counseling and medical care for such members; and

"(D) possible health risks to children of Persian Gulf veterans;

"(2) inform such individuals of the procedures for registering in either the Persian Gulf Veterans Health Surveillance System of the Department of Defense or the Persian Gulf War Health Registry of the Department of Veterans Affairs; and

"(3) encourage such members to report any symptoms they may have and to register in the appropriate health surveillance registry.

"(b) Incentives to Persian Gulf Veterans To Register.—In order to encourage Persian Gulf veterans to register any symptoms they may have in one of the existing health registries, the Secretary of Defense shall provide the following:

"(1) For any Persian Gulf veteran who is on active duty and who registers with the Department of Defense's Persian Gulf War Veterans Health Surveillance System, a full medical evaluation and any required medical care.

"(2) For any Persian Gulf War veteran who is, as of the date of the enactment of this Act [Oct. 5, 1994], a member of a reserve component, opportunity to register at a military medical facility in the Persian Gulf Veterans Health Care Surveillance System and, in the case of a Reserve who registers in that registry, a full medical evaluation by the Department of

Defense. Depending on the results of the evaluation and on eligibility status, reserve personnel may be provided medical care by the Department of Defense.

"(3) For a Persian Gulf veteran who is not, as of the date of the enactment of this Act [Oct. 5, 1994], on active duty or a member of a reserve component, assistance and information at a military medical facility on registering with the Persian Gulf War Registry of the Department of Veterans Affairs and information related to support services provided by the Department of Veterans Affairs.

"(c) Compatibility of Department of Defense and Department of Veterans Affairs Registries.—The Secretary of Defense shall take appropriate actions to ensure—

"(1) that the data collected by and the testing protocols of the Persian Gulf War Health Surveillance System maintained by the Department of Defense are compatible with the data collected by and the testing protocols of the Persian Gulf War Veterans Health Registry maintained by the Department of Veterans Affairs; and

"(2) that all information on individuals who register with the Department of Defense for purposes of the Persian Gulf War Health Surveillance System is provided to the Secretary of Veterans Affairs for incorporation into the Persian Gulf War Veterans Health Registry.

"(d) Presumptions on Behalf of Service Member.—(1) A member of the Armed Forces who is a Persian Gulf veteran, who has symptoms of illness, and who the Secretary concerned finds may have become ill as a result of serving on active duty in the Southwest Asia theater of operations during the Persian Gulf War shall be considered for Department of Defense purposes to have become ill as a result of serving in that theater of operations.

"(2) A member of the Armed Forces who is a Persian Gulf veteran and who reports being ill as a result of serving on active duty in the Southwest Asia theater of operations during the Persian Gulf War shall be considered for Department of Defense purposes to have become ill as a result of serving in that theater of operations until such time as the weight of medical evidence establishes other cause or causes of the member's illness.

"(3) The Secretary concerned shall ensure that, for the purposes of health care treatment by the Department of Defense, health care and personnel administration, and disability evaluation by the Department of Defense, the symptoms of any member of the Armed Forces covered by paragraph (1) or (2) are examined in light of the member's service in the Persian Gulf War and in light of the reported symptoms of other Persian Gulf veterans. The Secretary shall ensure that, in providing health care diagnosis and treatment of the member, a broad range of potential causes of the member's symptoms are considered and that the member's symptoms are considered collectively, as well as by type of symptom or medical specialty, and that treatment across medical specialties is coordinated appropriately.

"(4) The Secretary of Defense shall ensure that the presumptions of service connection and illness specified in paragraphs (1) and (2) are incorporated in appropriate service medical and personnel regulations and are widely disseminated throughout the Department of Defense.

"(e) Revision of the Physical Evaluation Board Criteria.—(1) The Secretary of Defense, in consultation with the Secretary of Veterans Affairs and the Secretary of Health and Human Services, shall ensure that case definitions of Persian Gulf related illnesses, as well as the Physical Evaluation Board criteria used to set disability ratings for members no longer medically qualified for continuation on active duty, are established as soon as possible to permit accurate disability ratings related to a diagnosis of Persian Gulf illnesses.

"(2) Until revised disability criteria can be implemented and members of the Armed Forces can be rated against those criteria, the Secretary of Defense shall ensure—

"(A) that any member of the Armed Forces on active duty who may be suffering from a Persian Gulf-related illness is afforded continued military medical care; and

TMA Version - March 2009

TMA Version - March 2009

"(B) that any member of the Armed Forces on active duty who is found by a Physical Evaluation Board to be unfit for continuation on active duty as a result of a Persian Gulf-related illness for which the board has no rating criteria (or inadequate rating criteria) for the illness or condition from which the member suffers is placed on the temporary disability retired list.

"(f) Review of Records and Rerating of Previously Discharged Gulf War Veterans.—(1) The Secretary of Defense, in consultation with the Secretary of Veterans Affairs, shall ensure that a review is made of the health and personnel records of each Persian Gulf veteran who before the date of the enactment of this Act [Oct. 5, 1994] was discharged from active duty, or was medically retired, as a result of a Physical Evaluation Board process.

"(2) The review under paragraph (1) shall be carried out to ensure that former Persian Gulf veterans who may have been suffering from a Persian Gulf-related illness at the time of discharge or retirement from active duty as a result of the Physical Evaluation Board process are reevaluated in accordance with the criteria established under subsection (e)(1) and, if appropriate, are rerated.

"(g) Persian Gulf Illness Medical Referral Centers.—The Secretary of Defense shall evaluate the feasibility of establishing one or more medical referral centers to provide uniform, coordinated medical care for Persian Gulf veterans on active duty who are or may be suffering from a Persian Gulf-related illness. The Secretary shall submit a report on such feasibility to the Committees on Armed Services of the Senate and House of Representatives not later than six months after the date of the enactment of this Act [Oct. 5, 1994].

"[(h) Repealed. Pub. L. 108-136, div. A, title X, Sec. 1031(e), Nov. 24, 2003, 117 Stat. 1604.]

"(i) Persian Gulf Veteran.—For purposes of this section, a Persian Gulf veteran is an individual who served on active duty in the Armed Forces in the Southwest Asia theater of operations during the Persian Gulf Conflict.

"SEC. 722. STUDIES OF HEALTH CONSEQUENCES OF MILITARY SERVICE OR EMPLOYMENT IN SOUTHWEST ASIA DURING THE PERSIAN GULF WAR.

"(a) In General.—The Secretary of Defense, in coordination with the Secretary of Veterans Affairs and the Secretary of Health and Human Services, shall conduct studies and administer grants for studies to determine—

"(1) the nature and causes of illnesses suffered by individuals as a consequence of service or employment by the United States in the Southwest Asia theater of operations during the Persian Gulf War; and

"(2) the appropriate treatment for those illnesses.

"(b) Nature of the Studies.—(1) Studies under subsection (a)—

"(A) shall include consideration of the range of potential exposure of individuals to environmental, battlefield, and other conditions incident to service in the theater;

"(B) shall be conducted so as to provide assessments of both short-term and long-term effects to the health of individuals as a result of those exposures; and

"(C) shall include, at a minimum, the following types of studies:

"(i) An epidemiological study or studies on the incidence, prevalence, and nature of the illness and symptoms and the risk factors associated with symptoms or illnesses.

"(ii) Studies to determine the health consequences of the use of pyridostigmine bromide as a pretreatment antidote enhancer during the Persian Gulf War, alone or in combination with exposure to pesticides, environmental toxins, and other hazardous substances.

"(iii) Clinical research and other studies on the causes, possible transmission, and treatment of Persian Gulf-related illnesses.

"(2)(A) The first project carried out under paragraph (1)(C)(ii) shall be a retrospective study of members of the Armed Forces who served in the Southwest Asia theater of operations during the Persian Gulf War.

"(B) The second project carried out under paragraph (1)(C)(ii) shall consist of animal research and nonanimal research, including in vitro systems, as required, designed to determine whether the use of pyridostigmine bromide in combination with exposure to pesticides or other organophosphates, carbamates, or relevant chemicals will result in increased toxicity in animals and is likely to have a similar effect on humans.

"(c) Individuals Covered by the Studies.—Studies conducted pursuant to subsections [sic] (a) shall apply to the following individuals:

"(1) Individuals who served as members of the Armed Forces in the Southwest Asia theater of operations during the Persian Gulf War.

"(2) Individuals who were civilian employees of the Department of Defense in that theater during that period.

"(3) To the extent appropriate, individuals who were employees of contractors of the Department of Defense in that theater during that period.

"(4) To the extent appropriate, the spouses and children of individuals described in paragraph (1).

"(d) Plan for the Studies.—(1) The Secretary of Defense shall prepare a coordinated plan for the studies to be conducted pursuant to subsection (a). The plan shall include plans and requirements for research grants in support of the studies. The Secretary shall submit the plan to the National Academy of Sciences for review and comment.

"(2) The plan for studies pursuant to subsection (a) shall be updated annually. The Secretary of Defense shall request an annual review by the National Academy of Sciences of the updated plan and study progress and results achieved during the preceding year.

"(3) The plan, and annual updates to the plan, shall be prepared in coordination with the Secretary of Veterans Affairs and the Secretary of Health and Human Services.

"(e) Funding.—(1) From the amount authorized to be appropriated pursuant to section 201 [108 Stat. 2690] for Defense-wide activities, the Secretary of Defense shall make available such funds as the Secretary considers necessary to support the studies conducted pursuant to subsection (a).

"(2) For each year in which activities continue in support of the studies conducted pursuant to subsection (a), the Secretary of Defense shall include in the budget request for the Department of Defense a request for such funds as the Secretary determines necessary to continue the activities during that fiscal year.

"(f) Reports.—(1) Not later than March 31, 1995, the Secretary of Defense shall submit to Congress the coordinated plan for the studies to be conducted pursuant to subsection (a) and the results of the review of that plan by the National Academy of Sciences.

"(2) Not later than October 1 of each year through 1998, the Secretary shall submit to Congress a report on the results of the studies conducted pursuant to subsection (a), plans for continuation of the studies, and the results of the annual review of the studies by the National Academy of Sciences.

"(3) Each report under this section shall be prepared in coordination with the Secretary of Veterans Affairs and the Secretary of Health and Human Services.

"(g) Definition.—In this section, the term 'Persian Gulf War' has the meaning given such term in section 101 of title 38, United States Code."

[For provisions establishing the Persian Gulf War Veterans Health Registry, provisions requiring a study by the Office of Technology Assessment of the Persian Gulf Registry and the Persian Gulf War Veterans Health Registry, provisions relating to an agreement with the National Academy of Sciences for review of health consequences of service during the Persian Gulf War, and

TMA Version - March 2009

TMA Version - March 2009

coordination of government activities on health-related research on the Persian Gulf War, see title VII of Pub. L. 102-585, set out as a note under section 527 of Title 38, Veterans' Benefits.]

Funding Of Fisher Houses Associated With Army Medical Treatment Facilities
Pub. L. 103-335, title VIII, Sec. 8017, Sept. 30, 1994, 108 Stat. 2620, which provided that during fiscal year 1995 and thereafter, proceeds from investment of Fisher House Investment Trust Fund were to be used to support operation and maintenance of Fisher Houses associated with Army medical treatment facilities, was repealed and restated in section 2221(c)(1) of this title by Pub. L. 104-106, div. A, title IX, Sec. 914(a)(1), (d)(4), Feb. 10, 1996, 110 Stat. 412, 413.

Mental Health Evaluations Of Members Of Armed Forces
Pub. L. 102-484, div. A, title V, Sec. 546(a)-(h), Oct. 23, 1992, 106 Stat. 2416-2419, directed Secretary of Defense, not later than 180 days after Oct. 23, 1992, to revise applicable regulations to incorporate certain requirements with respect to mental health evaluations of members of Armed Forces, including requirements relating to procedures for outpatient and inpatient evaluations, rights of members, additional rights of members and procedures for emergency or involuntary inpatient evaluations, and prohibition against use of referrals for mental health evaluations to retaliate against whistleblowers, and directed Secretary to submit to Committees on Armed Services of Senate and House of Representatives a report describing process of preparing regulations.

Study On Risk-Sharing Contracts For Health Care
Pub. L. 102-484, div. A, title VII, Sec. 725, Oct. 23, 1992, 106 Stat. 2440, directed Secretary of Defense, in consultation with Secretary of Health and Human Services, not later than 18 months after Oct. 23, 1992, to carry out a study of the feasibility and advisability of entering into risk-sharing contracts with eligible organizations described in 42 U.S.C. 1395mm(b) to furnish health care services to persons entitled to health care in a facility of a uniformed service under section 1074(b) or 1076(b) of this title, to develop a plan for the entry into contracts in accordance with the Secretary's determinations under the study, and to submit to Congress a report describing the results of the study and containing any plan developed.

Registry Of Members Of Armed Forces Serving In Operation Desert Storm
Pub. L. 102-190, div. A, title VII, Sec. 734, Dec. 5, 1991, 105 Stat. 1411, as amended by Pub. L. 102-585, title VII, Sec. 704, Nov. 4, 1992, 106 Stat. 4977; Pub. L. 108-136, div. A, title X, Sec. 1031(c)(1), Nov. 24, 2003, 117 Stat. 1604, provided that:

"(a) Establishment of Registry.—The Secretary of Defense shall establish and maintain a special record (in this section referred to as the 'Registry') relating to the following members of the Armed Forces:

"(1) Members who, as determined by the Secretary, were exposed to the fumes of burning oil in the Operation Desert Storm theater of operations during the Persian Gulf conflict.

"(2) Any other members who served in the Operation Desert Storm theater of operations during the Persian Gulf conflict.

"(b) Contents of Registry.—(1) The Registry shall include—

"(A) with respect to each class of members referred to in each of paragraphs (1) and (2) of subsection (a)—

"(i) a list containing each such member's name and other relevant identifying information with respect to the member; and

"(ii) to the extent that data are available and inclusion of the data is feasible, a description of the circumstances of the member's service during the Persian Gulf conflict, including the locations in the Operation Desert Storm theater of

operations in which such service occurred and the atmospheric and other environmental circumstances in such locations at the time of such service; and

"(B) with respect to the members referred to in subsection (a)(1), a description of the circumstances of each exposure of each such member to the fumes of burning oil as described in such subsection (a)(1), including the length of time of the exposure.

"(2) The Secretary shall establish the Registry with the advice of an independent scientific organization.

"[(c) Repealed. Pub. L. 108-136, div. A, title X, Sec. 1031(c)(1), Nov. 24, 2003, 117 Stat. 1604.]

"(d) Medical Examination.—Upon the request of any member listed in the Registry pursuant to subsection (a)(1), the Secretary of the military department concerned shall, if medically appropriate, furnish a pulmonary function examination and chest x-ray to such person.

"(e) Effective Date.—The Secretary shall establish the Registry not later than 180 days after the date of the enactment of this Act [Dec. 5, 1991].

"(f) Definitions.—For purposes of this section:

"(1) The term 'Operation Desert Storm' has the meaning given such term in section 3(1) of the Persian Gulf Conflict Supplemental Authorization and Personnel Benefits Act of 1991 (Public Law 102-25; 105 Stat. 77; 10 U.S.C. 101 note).

"(2) The term 'Persian Gulf conflict' has the meaning given such term in section 3(3) of such Act."

[For provisions relating to the Persian Gulf War Veterans Health Registry, see title VII of Pub. L. 102-585, set out as a note under section 527 of Title 38, Veterans' Benefits.]

Advisory Committee On Mental Health Evaluation Protections

Section 554 of Pub. L. 101-510, as amended by Pub. L. 102-484, div. A, title V, Sec. 546(j)[(i)], Oct. 23, 1992, 106 Stat. 2419, directed Secretary of Defense, not later than 60 days after Nov. 5, 1990, to establish an advisory committee to develop and recommend to the Secretary, not later than 6 months after Nov. 5, 1990, regulations on procedural protections that should be afforded to any member of the Armed Forces who is referred by a commanding officer for a mental health evaluation by a mental health professional and directed Secretary, not later than 30 days after receipt of the report, to submit to Congress the report of the advisory committee, along with such additional comments and recommendations by the Secretary as the Secretary considers appropriate.

Prohibition On Fee For Outpatient Care At Military Medical Treatment Facilities

Section 721 of Pub. L. 101-189 provided that during fiscal years 1990 and 1991, the Secretary of Defense could not impose a charge for the receipt of outpatient medical or dental care at a military medical treatment facility. Similar provisions were contained in the following prior authorization act:

Pub. L. 100-180, div. A, title VII, Sec. 722, Dec. 4, 1987, 101 Stat. 1116.

Restriction On Use Of Information Obtained During Certain Epidemiologic-Assessment Interviews

Pub. L. 99-661, div. A, title VII, Sec. 705(c), Nov. 14, 1986, 100 Stat. 3904, provided that:

"(1) Information obtained by the Department of Defense during or as a result of an epidemiologic-assessment interview with a serum-positive member of the Armed Forces may not be used to support any adverse personnel action against the member.

"(2) For purposes of paragraph (1):

"(A) The term 'epidemiologic-assessment interview' means questioning of a serum-positive member of the Armed Forces for purposes of medical treatment or counseling or for epidemiologic or statistical purposes.

TMA Version - March 2009

TMA Version - March 2009

"(B) The term 'serum-positive member of the Armed Forces' means a member of the Armed Forces who has been identified as having been exposed to a virus associated with the acquired immune deficiency syndrome.

"(C) The term 'adverse personnel action' includes—

"(i) a court-martial;

"(ii) non-judicial punishment;

"(iii) involuntary separation (other than for medical reasons);

"(iv) administrative or punitive reduction in grade;

"(v) denial of promotion;

"(vi) an unfavorable entry in a personnel record;

"(vii) a bar to reenlistment; and

"(viii) any other action considered by the Secretary concerned to be an adverse personnel action."

Study Of Medical Needs Of Armed Forces; Report To President And Congress

Pub. L. 92-129, title I, Sec. 101(c), Sept. 28, 1971, 85 Stat. 354, authorized Secretary of Defense and Secretary of Health, Education, and Welfare to conduct a joint study of means of meeting medical needs of Armed Forces through means requiring less dependence on Armed Forces medical personnel, giving consideration to providing medical care for military personnel and their dependents under contracts with clinics, hospitals, and individual members of the medical profession at or near military installations within and outside the United States. The study and recommendations were to be submitted to President and Congress no later than 6 months after Sept. 28, 1971.

Executive Order No. 13075

Ex. Ord. No. 13075, Feb. 19, 1997, 63 F.R. 9085, which established the Special Oversight Board for Department of Defense Investigations of Gulf War Chemical and Biological Incidents, was revoked by Ex. Ord. No. 13225, Sec. 3(e), Sept. 28, 2001, 66 F.R. 50292.

§ 1074a. Medical and dental care: members on duty other than active duty for a period of more than 30 days

TMA Version - March 2009

(a) Under joint regulations prescribed by the administering Secretaries, the following persons are entitled to the benefits described in subsection (b):

(1) Each member of a uniformed service who incurs or aggravates an injury, illness, or disease in the line of duty while performing—

(A) active duty for a period of 30 days or less;

(B) inactive-duty training; or

(C) service on funeral honors duty under section 12503 of this title or section 115 of title 32.

(2) Each member of a uniformed service who incurs or aggravates an injury, illness, or disease while traveling directly to or from the place at which that member is to perform or has performed—

(A) active duty for a period of 30 days or less;

(B) inactive-duty training; or

(C) service on funeral honors duty under section 12503 of this title or section 115 of title 32.

(3) Each member of the armed forces who incurs or aggravates an injury, illness, or disease in the line of duty while remaining overnight immediately before the commencement of inactive-duty training, or while remaining overnight, between successive periods of inactive-duty training, at or in the vicinity of the site of the inactive-duty training.

(4) Each member of the armed forces who incurs or aggravates an injury, illness, or disease in the line of duty while remaining overnight immediately before serving on funeral honors duty under section 12503 of this title or section 115 of title 32 at or in the vicinity of the place at which the member was to so serve, if the place is outside reasonable commuting distance from the member's residence.

(b) A person described in subsection (a) is entitled to—

(1) the medical and dental care appropriate for the treatment of the injury, illness, or disease of that person until the resulting disability cannot be materially improved by further hospitalization or treatment; and

(2) subsistence during hospitalization.

TMA Version - March 2009

(c) A member is not entitled to benefits under subsection (b) if the injury, illness, or disease, or aggravation of an injury, illness, or disease described in subsection (a)(2), is the result of the gross negligence or misconduct of the member.

(d)(1) The Secretary concerned shall provide to members of the Selected Reserve who are assigned to units scheduled for deployment within 75 days after mobilization the following medical and dental services:

(A) An annual medical screening.

(B) For members who are over 40 years of age, a full physical examination not less often than once every two years.

(C) An annual dental screening.

(D) The dental care identified in an annual dental screening as required to ensure that a member meets the dental standards required for deployment in the event of mobilization.

(2) The services provided under this subsection shall be provided at no cost to the member.

(e)(1) A member of a uniformed service on active duty for health care or recuperation reasons, as described in paragraph (2), is entitled to medical and dental care on the same basis and to the same extent as members covered by section 1074(a) of this title while the member remains on active duty.

(2) Paragraph (1) applies to a member described in paragraph (1) or (2) of subsection (a) who, while being treated for (or recovering from) an injury, illness, or disease incurred or aggravated in the line of duty, is continued on active duty pursuant to a modification or extension of orders, or is ordered to active duty, so as to result in active duty for a period of more than 30 days.

(f)(1) At any time after the Secretary concerned notifies members of the Ready Reserve that the members are to be called or ordered to active duty for a period of more than 30 days, the administering Secretaries may provide to each such member any medical and dental screening and care that is necessary to ensure that the member meets the applicable medical and dental standards for deployment.

(2) The notification to members of the Ready Reserve described in paragraph (1) shall include notice that the members are eligible for screening and care under this section.

(3) A member provided medical or dental screening or care under paragraph (1) may not be charged for the screening or care.

(g)(1) The Secretary concerned may provide to any member of the Selected Reserve not described in subsection (d)(1) or (f), and to any member of the Individual Ready Reserve described in section 10144(b) of this title the medical and dental services specified in subsection (d)(1) if the Secretary determines that the receipt of such services by such member is necessary to ensure that the member meets applicable standards of medical and dental readiness.

(2) Services may not be provided to a member under this subsection for a condition that is the result of the member's own misconduct.

(3) The services provided under this subsection shall be provided at no cost to the member.

(h) Amounts available for operation and maintenance of a reserve component of the armed forces may be available for purposes of this section to ensure the medical and dental readiness of members of such reserve component.

TMA Version - March 2009

NOTES

Source

(Added Pub. L. 98-94, title X, Sec. 1012(a)(1), Sept. 24, 1983, 97 Stat. 664; amended Pub. L. 98-525, title VI, Sec. 631(a)(1), Oct. 19, 1984, 98 Stat. 2542; Pub. L. 98-557, Sec. 19(4), Oct. 30, 1984, 98 Stat. 2869; Pub. L. 99-145, title XIII, Sec. 1303(a)(7), Nov. 8, 1985, 99 Stat. 739; Pub. L. 99-661, div. A, title VI, Sec. 604(a)(1), Nov. 14, 1986, 100 Stat. 3874; Pub. L. 104-106, div. A, title VII, Secs. 702(a), 704(a), Feb. 10, 1996, 110 Stat. 371, 372; Pub. L. 105-85, div. A, title V, Sec. 513(a), Nov. 18, 1997, 111 Stat. 1730; Pub. L. 106-65, div. A, title V, Sec. 578(i)(1), title VII, Sec. 705(b), Oct. 5, 1999, 113 Stat. 629, 683; Pub. L. 107-107, div. A, title V, Sec. 513(a), Dec. 28, 2001, 115 Stat. 1093; Pub. L. 108-106, title I, Sec. 1114, Nov. 6, 2003, 117 Stat. 1216; Pub. L. 108-136, div. A, title VII, Sec. 701, Nov. 24, 2003, 117 Stat. 1525; Pub. L. 110-417, [div. A], title VII, Sec. 735(a), Oct. 14, 2008, 122 Stat. 4513.)

Amendments

2008—Subsec. (d)(1). Pub. L. 110-417, Sec. 735(a)(1), substituted "The Secretary concerned shall provide to members of the Selected Reserve" for "The Secretary of the Army shall provide to members of the Selected Reserve of the Army".
Subsecs. (g), (h). Pub. L. 110-417, Sec. 735(a)(2), (3), added subsecs. (g) and (h).

2003—Subsec. (f). Pub. L. 108-136 amended subsec. (f) generally. Prior to amendment, subsec. (f) read as follows:
"(1) At any time after the Secretary concerned notifies members of the Ready Reserve that the members are to be called or ordered to active duty, the administering Secretaries may provide to each such member any medical and dental screening and care that is necessary to ensure that the member meets the applicable medical and dental standards for deployment.
"(2) The Secretary concerned shall promptly transmit to each member of the Ready Reserve eligible for screening and care under this subsection a notification of eligibility for such screening and care.
"(3) A member provided medical or dental screening or care under paragraph (1) may not be charged for the screening or care.
"(4) Screening and care may not be provided under this section after September 30, 2004."
Pub. L. 108-106 added subsec. (f).

2001—Subsec. (a)(3). Pub. L. 107-107 struck out ", if the site is outside reasonable commuting distance from the member's residence" before period at end.

1999—Subsec. (a)(1)(C). Pub. L. 106-65, Sec. 578(i)(1)(A), added subpar. (C).
Subsec. (a)(2)(C). Pub. L. 106-65, Sec. 578(i)(1)(A), added subpar. (C).
Subsec. (a)(4). Pub. L. 106-65, Sec. 578(i)(1)(B), added par. (4).

TMA Version - March 2009

Subsec. (e). Pub. L. 106-65, Sec. 705(b), amended subsec. (e) generally. Prior to amendment, subsec. (e) read as follows: "A member of a uniformed service described in paragraph (1)(A) or (2)(A) of subsection (a) whose orders are modified or extended, while the member is being treated for (or recovering from) the injury, illness, or disease incurred or aggravated in the line of duty, so as to result in active duty for a period of more than 30 days shall be entitled, while the member remains on active duty, to medical and dental care on the same basis and to the same extent as members covered by section 1074(a) of this title."

1997—Subsec. (a)(3). Pub. L. 105-85, Sec. 513(a)(1), inserted "while remaining overnight immediately before the commencement of inactive-duty training, or" after "in the line of duty".
Subsec. (e). Pub. L. 105-85, Sec. 513(a)(2), added subsec. (e).

1996—Subsec. (a)(3). Pub. L. 104-106, Sec. 702(a), added par. (3).
Subsec. (c). Pub. L. 104-106, Sec. 704(a)(1), substituted "subsection (b)" for "this section".

Subsec. (d). Pub. L. 104-106, Sec. 704(a)(2), added subsec. (d).

1986—Pub. L. 99-661 amended section generally substituting "active duty for a period of more than 30 days" for "active duty; injuries, diseases and illnesses incident to duty" in section catchline and new text for prior text which read as follows:
"(a) Under joint regulations prescribed by the administering Secretaries, the following persons are entitled to the benefits described in subsection (b):

"(1) Each member of a uniformed service who contracts a disease or becomes ill in line of duty while on active duty for a period of 30 days or less, or while traveling to or from that duty.
"(2) Each member of the National Guard who contracts a disease or becomes ill in line of duty while on full-time National Guard duty, or while traveling to or from that duty.
"(3) Each member of a uniformed service who contracts a disease or becomes ill in line of duty while on inactive duty training under circumstances in which it is determined that the disease or illness was contracted or aggravated as an incident of that inactive duty training.
"(4) Each member of a uniformed service who incurs or aggravates an injury while traveling directly to or from the place at which he is to perform, or has performed, inactive duty training, unless the injury is incurred or aggravated as a result of the member's own gross negligence or misconduct.

"(b) A person described in subsection (a) is entitled to—

"(1) the medical and dental care appropriate for the treatment of his injury, disease, or illness until the resulting disability cannot be materially improved by further hospitalization or treatment; and
"(2) subsistence during hospitalization."

1985—Subsec. (a). Pub. L. 99-145 substituted reference to the administering Secretaries, for references to Secretaries of Defense, Transportation, and Health and Human Services.

1984—Pub. L. 98-525 substituted "Medical and dental care: members on duty other than active duty; injuries, diseases and illnesses incident to duty" for "Medical and dental care for members of the uniformed services for injuries incurred or aggravated while traveling to and from inactive duty training" in section catchline.

Subsec. (a). Pub. L. 98-557, which directed the amendment of subsec. (a) by substituting "administering Secretaries" for "Secretary of Defense and the Secretary of Health and Human Services", could not be executed in view of the prior amendment by Pub. L. 98-525.
Pub. L. 98-525 amended subsec. (a) generally, thereby authorizing the Secretary of Transportation to participate in issuance of joint regulations, adding pars. (1) to (3), and incorporating existing provisions in par. (4).
Subsec. (b). Pub. L. 98-525 amended subsec. (b) generally, thereby including treatment of diseases or illnesses.

Effective Date Of 1986 Amendment
Section 604(g) of Pub. L. 99-661 provided that: "The amendments made by this section [amending this section, sections 1076, 1086, 1204-1206, 1475, 1476, 1481, 3723, and 8723 of this title, and sections 204 and 206 of Title 37, Pay and Allowances of the Uniformed Services and repealing sections 3687, 3721, 3722, 6148, 8687, 8721, and 8722 of this title and sections 318-321 of Title 32, National Guard] shall apply with respect to persons who, after the date of enactment of this Act [Nov. 14, 1986], incur or aggravate an injury, illness, or disease or die."

Effective Date Of 1984 Amendment
Section 631(c) of Pub. L. 98-525 provided that: "The amendments made by this section [amending this section and section 6148 of this title] shall apply only with respect to injuries incurred or aggravated and diseases or illnesses contracted or aggravated after September 30, 1984."

Effective Date
Section 1012(c) of Pub. L. 98-94 provided that: "The amendments made by subsections (a) and (b) [enacting this section and amending section 204 of Title 37, Pay and Allowances of the Uniformed Services] shall apply only in cases of injuries incurred or aggravated on or after the date of the enactment of this Act [Sept. 24, 1983]."

TMA Version - March 2009

§ 1074f. Medical tracking system for members deployed overseas

TMA Version - March 2009

(a) System Required.—The Secretary of Defense shall establish a system to assess the medical condition of members of the armed forces (including members of the reserve components) who are deployed outside the United States or its territories or possessions as part of a contingency operation (including a humanitarian operation, peacekeeping operation, or similar operation) or combat operation.

(b) Elements of System.—(1) The system described in subsection (a) shall include the use of predeployment medical examinations and postdeployment medical examinations (including an assessment of mental health and the drawing of blood samples) to accurately record the medical condition of members before their deployment and any changes in their medical condition during the course of their deployment. The postdeployment examination shall be conducted when the member is redeployed or otherwise leaves an area in which the system is in operation (or as soon as possible thereafter).

(2) The predeployment and postdeployment medical examination of a member of the armed forces required under paragraph (1) shall include the following:

(A) An assessment of the current treatment of the member and any use of psychotropic medications by the member for a mental health condition or disorder.

(B) An assessment of traumatic brain injury.

(C) An assessment of post-traumatic stress disorder.

(3)(A) The Secretary shall establish for purposes of subparagraphs (B) and (C) of paragraph (2) a protocol for the predeployment assessment and documentation of the cognitive (including memory) functioning of a member who is deployed outside the United States in order to facilitate the assessment of the postdeployment cognitive (including memory) functioning of the member.

(B) The protocol under subparagraph (A) shall include appropriate mechanisms to permit the differential diagnosis of traumatic brain injury in members returning from deployment in a combat zone.

(c) Recordkeeping.—The results of all medical examinations conducted under the system, records of all health care services (including immunizations) received by members described in subsection (a) in anticipation of their deployment or during the course of their deployment, and records of events occurring in the deployment area that may affect the health of such members shall be retained and maintained in a centralized location to improve future access to the records.

(d) Quality Assurance.—(1) The Secretary of Defense shall establish a quality assurance program to evaluate the success of the system in ensuring that members described in subsection (a) receive

TMA Version - March 2009

predeployment medical examinations and postdeployment medical examinations and that the recordkeeping requirements with respect to the system are met.

(2) The quality assurance program established under paragraph (1) shall also include the following elements:

(A) The types of healthcare providers conducting postdeployment health assessments.

(B) The training received by such providers applicable to the conduct of such assessments, including training on assessments and referrals relating to mental health.

(C) The guidance available to such providers on how to apply the clinical practice guidelines developed under subsection (e)(1) in determining whether to make a referral for further evaluation of a member of the armed forces relating to mental health.

(D) The effectiveness of the tracking mechanisms required under this section in ensuring that members who receive referrals for further evaluations relating to mental health receive such evaluations and obtain such care and services as are warranted.

(E) Programs established for monitoring the mental health of each member who, after deployment to a combat operation or contingency operations, is known—

(i) to have a mental health condition or disorder; or

(ii) to be receiving treatment, including psychotropic medications, for a mental health condition or disorder.

(F) The diagnosis and treatment of traumatic brain injury and post-traumatic stress disorder.

(e) Criteria for Referral for Further Evaluations.—The system described in subsection (a) shall include—

(1) development of clinical practice guidelines to be utilized by healthcare providers in determining whether to refer a member of the armed forces for further evaluation relating to mental health (including traumatic brain injury);

(2) mechanisms to ensure that healthcare providers are trained in the application of such clinical practice guidelines; and

(3) mechanisms for oversight to ensure that healthcare providers apply such guidelines consistently.

(f) Minimum Standards for Deployment.—(1) The Secretary of Defense shall prescribe in regulations minimum standards for mental health for the eligibility of a member of the armed forces for deployment to a combat operation or contingency operation.

(2) The standards required by paragraph (1) shall include the following:

(A) A specification of the mental health conditions, treatment for such conditions, and

receipt of psychotropic medications for such conditions that preclude deployment of a member of the armed forces to a combat operation or contingency operation, or to a specified type of such operation.

(B) Guidelines for the deployability and treatment of members of the armed forces diagnosed with a severe mental illness, traumatic brain injury, or post traumatic stress disorder.

(3) The Secretary shall take appropriate actions to ensure the utilization of the standards prescribed under paragraph (1) in the making of determinations regarding the deployability of members of the armed forces to a combat operation or contingency operation.

NOTES

Source
(Added Pub. L. 105-85, div. A, title VII, Sec. 765(a)(1), Nov. 18, 1997, 111 Stat. 1826; amended Pub. L. 109-364, div. A, title VII, Sec. 738(a)-(d), Oct. 17, 2006, 120 Stat. 2303; Pub. L. 110-181, div. A, title XVI, Sec. 1673(a)(1), (b), (c), Jan. 28, 2008, 122 Stat. 482, 483; Pub. L. 111-84, div. A, title X, Sec. 1073(a)(9), Oct. 28, 2009, 123 Stat. 2472.)

Amendments
2009—Subsec. (f)(3). Pub. L. 111-84 substituted "contingency" for "continency".

2008—Subsec. (b)(2)(C). Pub. L. 110-181, Sec. 1673(a)(1)(A), added subpar. (C).
Subsec. (b)(3). Pub. L. 110-181, Sec. 1673(a)(1)(B), added par. (3).
Subsec. (d)(2)(F). Pub. L. 110-181, Sec. 1673(b), added subpar. (F).
Subsec. (f). Pub. L. 110-181, Sec. 1673(c)(1), struck out "Mental Health" after "Minimum" in heading.
Subsec. (f)(2)(B). Pub. L. 110-181, Sec. 1673(c)(2), substituted ", traumatic brain injury, or" for "or".

2006—Subsec. (b). Pub. L. 109-364, Sec. 738(a), designated existing provisions as par. (1) and added par. (2).
Subsec. (d). Pub. L. 109-364, Sec. 738(d), designated existing provisions as par. (1) and added par. (2).
Subsec. (e). Pub. L. 109-364, Sec. 738(b), added subsec. (e).
Subsec. (f). Pub. L. 109-364, Sec. 738(c), added subsec. (f).

Mental Health Assessments For Members Of The Armed Forces Deployed In Connection With A Contingency Operation
Pub. L. 111-84, div. A, title VII, Sec. 708, Oct. 28, 2009, 123 Stat. 2376, provided that:

"(a) Mental Health Assessments.—

(1) In general.—Not later than 180 days after the date of the enactment of this Act [Oct. 28, 2009], the Secretary of Defense shall issue guidance for the provision of a person-to-person mental health assessment for each member of the Armed Forces who is deployed in connection with a contingency operation as follows:

(A) At a time during the period beginning 60 days before the date of deployment in connection with the contingency operation.

TMA Version - March 2009

TMA Version - March 2009

(B) At a time during the period beginning 90 days after the date of redeployment from the contingency operation and ending 180 days after the date of redeployment from the contingency operation.

(C) Subject to subsection (d), not later than each of 6 months, 12 months, and 24 months after return from deployment.

(2) Exclusion of certain members.—A mental health assessment is not required for a member of the Armed Forces under subparagraphs (B) and (C) of paragraph (1) if the Secretary determines that the member was not subjected or exposed to operational risk factors during deployment in the contingency operation concerned.

"(b) Purpose.—The purpose of the mental health assessments provided pursuant to this section shall be to identify post-traumatic stress disorder, suicidal tendencies, and other behavioral health conditions identified among members of the Armed Forces described in subsection (a) in order to determine which such members are in need of additional care and treatment for such health conditions.

"(c) Elements.—

(1) In general.—The mental health assessments provided pursuant to this section shall—

(A) be performed by personnel trained and certified to perform such assessments and may be performed by licensed mental health professionals if such professionals are available and the use of such professionals for the assessments would not impair the capacity of such professionals to perform higher priority tasks;

(B) include a person-to-person dialogue between members of the Armed Forces described in subsection (a) and the professionals or personnel described by paragraph (1), as applicable, on such matters as the Secretary shall specify in order that the assessments achieve the purpose specified in subsection (b) for such assessments;

(C) be conducted in a private setting to foster trust and openness in discussing sensitive health concerns; and

(D) be provided in a consistent manner across the military departments.

(2) Treatment of current assessments.—The Secretary may treat periodic health assessments and other person-to-person assessments that are provided to members of the Armed Forces as of the date of the enactment of this Act [Oct. 28, 2009] as meeting the requirements for mental health assessments required under this section if the Secretary determines that such assessments and person-to-person assessments meet the requirements for mental health assessments established by this section.

"(d) Cessation of Assessments.—No mental health assessment is required to be provided to an individual under subsection (a)(1)(C) after the individual's discharge or release from the Armed Forces.

"(e) Sharing of Information.—

(1) In general.—The Secretary of Defense shall share with the Secretary of Veterans Affairs such information on members of the Armed Forces that is derived from confidential mental health assessments, including mental health assessments provided pursuant to this section and health assessments and other person-to-person assessments provided before the date of the enactment of this Act [Oct. 28, 2009], as the Secretary of Defense and the Secretary of Veterans Affairs jointly consider appropriate to ensure continuity of mental health care and treatment of members of the Armed Forces during their transition from health care and treatment provided by the Department of Defense to health care and treatment provided by the Department of Veterans Affairs.

(2) Protocols.—Any sharing of information under paragraph (1) shall occur pursuant to a protocol jointly established by the Secretary of Defense and the Secretary of Veterans

Affairs for purposes of this subsection. Any such protocol shall be consistent with the following:

(A) Applicable provisions of the Wounded Warrior Act (title XVI of Public Law 110-181; 10 U.S.C. 1071 note), including in particular, section 1614 of that Act (122 Stat. 443; 10 U.S.C. 1071 note).

(B) Section 1720F of title 38, United States Code.

"(f) Contingency Operation Defined.—In this section, the term 'contingency operation' has the meaning given that term in section 101(a)(13) of title 10, United States Code.

"(g) Reports.—

(1) Report on guidance.—Upon the issuance of the guidance required by subsection (a), the Secretary of Defense shall submit to Congress a report describing the guidance.

(2) Reports on implementation of guidance.—

(A) Initial report.—Not later than 270 days after the date of the issuance of the guidance, the Secretary shall submit to Congress an initial report on the implementation of the guidance by the military departments.

(B) Subsequent report.—Not later than two years after the date of the issuance of the guidance, the Secretary shall submit to Congress a report on the implementation of the guidance by the military departments. The report shall include an evidence-based assessment of the effectiveness of the mental health assessments provided pursuant to the guidance in achieving the purpose specified in subsection (b) for such assessments."

Administration And Prescription Of Psychotropic Medications For Members Of The Armed Forces Before And During Deployment

Pub. L. 111-84, div. A, title VII, Sec. 712, Oct. 28, 2009, 123 Stat. 2379, provided that:

"(a) Report Required.—Not later than October 1, 2010, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the implementation of policy guidance dated November 7, 2006, regarding deployment-limiting psychiatric conditions and medications.

"(b) Policy Required.—Not later than October 1, 2010, the Secretary shall establish and implement a policy for the use of psychotropic medications for deployed members of the Armed Forces. The policy shall, at a minimum, address the following:

(1) The circumstances or diagnosed conditions for which such medications may be administered or prescribed.

(2) The medical personnel who may administer or prescribe such medications.

(3) The method in which the administration or prescription of such medications will be documented in the medical records of members of the Armed Forces.

(4) The exam, treatment, or other care that is required following the administration or prescription of such medications."

Pilot Projects

Pub. L. 110-181, div. A, title XVI, Sec. 1673(a)(2), Jan. 28, 2008, 122 Stat. 482, provided that:

"(A) In developing the protocol required by paragraph (3) of section 1074f(b) of title 10, United States Code (as amended by paragraph (1) of this subsection), for purposes of assessments for traumatic brain injury, the Secretary of Defense shall conduct up to three pilot projects to evaluate various mechanisms for use in the protocol for such purposes. One of the mechanisms to be so evaluated shall be a computer-based assessment tool which shall, at a minimum, include the following:

(i) Administration of computer-based neurocognitive assessment.

TMA Version - March 2009

(ii) Pre-deployment assessments to establish a neurocognitive baseline for members of the Armed Forces for future treatment.

"(B) Not later than 60 days after the completion of the pilot projects conducted under this paragraph, the Secretary shall submit to the appropriate committees of Congress [Committees on Armed Services, Veterans' Affairs, and Appropriations of the Senate and the House of Representatives] a report on the pilot projects. The report shall include—

(i) a description of the pilot projects so conducted;

(ii) an assessment of the results of each such pilot project; and

(iii) a description of any mechanisms evaluated under each such pilot project that will be incorporated into the protocol.

"(C) Not later than 180 days after completion of the pilot projects conducted under this paragraph, the Secretary shall establish a means for implementing any mechanism evaluated under such a pilot project that is selected for incorporation in the protocol."

Implementation

Pub. L. 109-364, div. A, title VII, Sec. 738(f), Oct. 17, 2006, 120 Stat. 2304, provided that: "The Secretary of Defense shall implement the requirements of the amendments made by this section [amending this section] not later than six months after the date of the enactment of this Act [Oct. 17, 2006]."

Interim Standards For Blood Sampling

Pub. L. 108-375, div. A, title VII, Sec. 733(b), Oct. 28, 2004, 118 Stat. 1998, as amended by Pub. L. 109-364, div. A, title X, Sec. 1071(g)(9), Oct. 17, 2006, 120 Stat. 2402, provided that:

"(1) Time requirements.—Subject to paragraph (2), the Secretary of Defense shall require that—

"(A) the blood samples necessary for the predeployment medical examination of a member of the Armed Forces required under section 1074f(b) of title 10, United States Code, be drawn not earlier than 120 days before the date of the deployment; and

"(B) the blood samples necessary for the postdeployment medical examination of a member of the Armed Forces required under such section 1074f(b) of such title be drawn not later than 30 days after the date on which the deployment ends.

"(2) Contingent applicability.—The standards under paragraph (1) shall apply unless the Joint Medical Readiness Oversight Committee established by section 731(b) [10 U.S.C. 1074 note] recommends, and the Secretary approves, different standards for blood sampling."

TMA Version - March 2009

§ 1074g. Pharmacy benefits program

(a) Pharmacy Benefits.—(1) The Secretary of Defense, after consulting with the other administering Secretaries, shall establish an effective, efficient, integrated pharmacy benefits program under this chapter (hereinafter in this section referred to as the "pharmacy benefits program").

(2)(A) The pharmacy benefits program shall include a uniform formulary of pharmaceutical agents, which shall assure the availability of pharmaceutical agents in the complete range of therapeutic classes. The selection for inclusion on the uniform formulary of particular pharmaceutical agents in each therapeutic class shall be based on the relative clinical and cost effectiveness of the agents in such class.

(B) In considering the relative clinical effectiveness of agents under subparagraph (A), the Secretary shall presume inclusion in a therapeutic class of a pharmaceutical agent, unless the Pharmacy and Therapeutics Committee established under subsection (b) finds that a pharmaceutical agent does not have a significant, clinically meaningful therapeutic advantage in terms of safety, effectiveness, or clinical outcome over the other drugs included on the uniform formulary.

(C) In considering the relative cost effectiveness of agents under subparagraph (A), the Secretary shall rely on the evaluation by the Pharmacy and Therapeutics Committee of the costs of agents in a therapeutic class in relation to the safety, effectiveness, and clinical outcomes of such agents.

(D) The Secretary shall establish procedures for the selection of particular pharmaceutical agents for the uniform formulary. Such procedures shall be established so as best to accomplish, in the judgment of the Secretary, the objectives set forth in paragraph (1). No pharmaceutical agent may be excluded from the uniform formulary except upon the recommendation of the Pharmacy and Therapeutics Committee. The Secretary shall begin to implement the uniform formulary not later than October 1, 2000.

(E) Pharmaceutical agents included on the uniform formulary shall be available to eligible covered beneficiaries through—

(i) facilities of the uniformed services, consistent with the scope of health care services offered in such facilities and additional determinations by the Pharmacy and Therapeutics Committee of the relative clinical and cost effectiveness of the agents;

(ii) retail pharmacies designated or eligible under the TRICARE program or the Civilian Health and Medical Program of the Uniformed Services to provide pharmaceutical agents to covered beneficiaries; or

(iii) the national mail-order pharmacy program.

TMA Version - March 2009

TMA Version - March 2009

(3) The pharmacy benefits program shall assure the availability of clinically appropriate pharmaceutical agents to members of the armed forces, including, where appropriate, agents not included on the uniform formulary described in paragraph (2).

(4) The pharmacy benefits program may provide that prior authorization be required for certain pharmaceutical agents to assure that the use of such agents is clinically appropriate.

(5) The pharmacy benefits program shall assure the availability to eligible covered beneficiaries of pharmaceutical agents not included on the uniform formulary. Such pharmaceutical agents shall be available through at least one of the means described in paragraph (2)(E) under terms and conditions that may include cost sharing by the eligible covered beneficiary in addition to any such cost sharing applicable to agents on the uniform formulary.

(6)(A) The Secretary, in the regulations prescribed under subsection (g),[1] may establish cost sharing requirements (which may be established as a percentage or fixed dollar amount) under the pharmacy benefits program for generic, formulary, and nonformulary agents. For nonformulary agents, cost sharing shall be consistent with common industry practice and not in excess of amounts generally comparable to 20 percent for beneficiaries covered by section 1079 of this title or 25 percent for beneficiaries covered by section 1086 of this title.

(B) For a medicare-eligible beneficiary, the cost-sharing requirements may not be in excess of the cost-sharing requirements applicable to all other beneficiaries covered by section 1086 of this title. For purposes of the preceding sentence, a medicare-eligible beneficiary is a beneficiary eligible for health benefits under section 1086 of this title pursuant to subsection (d)(2) of such section.

(7) The Secretary shall establish procedures for eligible covered beneficiaries to receive pharmaceutical agents that are not included on the uniform formulary but that are considered to be clinically necessary. Such procedures shall include peer review procedures under which the Secretary may determine that there is a clinical justification for the use of a pharmaceutical agent that is not on the uniform formulary, in which case the pharmaceutical agent shall be provided under the same terms and conditions as an agent on the uniform formulary. Such procedures shall also include an expeditious appeals process for an eligible covered beneficiary, or a network or uniformed provider on behalf of the beneficiary, to establish clinical justification for the use of a pharmaceutical agent that is not on the uniform formulary.

(8) In carrying out this subsection, the Secretary shall ensure that an eligible covered beneficiary may continue to receive coverage for any maintenance pharmaceutical that is not on the uniform formulary and that was prescribed for the beneficiary before October 5, 1999, and stabilized the medical condition of the beneficiary.

(b) Establishment of Committee.—(1) The Secretary of Defense shall, in consultation with the Secretaries of the military departments, establish a Pharmacy and Therapeutics Committee for the purpose of developing the uniform formulary of pharmaceutical agents required by subsection (a), reviewing such formulary on a periodic basis, and making additional recommendations regarding the formulary as the committee determines necessary and appropriate. The committee shall include representatives of pharmacies of the uniformed services facilities and representatives of providers in facilities of the uniformed services. Committee members shall have expertise in treating the medical needs of the populations served through such entities and in the range of pharmaceutical and biological medicines available for treating such populations. The committee

shall function under procedures established by the Secretary under the regulations prescribed under subsection (g).[1]

(2) Not later than 90 days after the establishment of the Pharmacy and Therapeutics Committee by the Secretary, the committee shall convene to design a proposed uniform formulary for submission to the Secretary. After such 90-day period, the committee shall meet at least quarterly and shall, during meetings, consider for inclusion on the uniform formulary under the standards established in subsection (a) any drugs newly approved by the Food and Drug Administration.

(c) Advisory Panel.—(1) Concurrent with the establishment of the Pharmacy and Therapeutics Committee under subsection (b), the Secretary shall establish a Uniform Formulary Beneficiary Advisory Panel to review and comment on the development of the uniform formulary. The Secretary shall consider the comments of the panel before implementing the uniform formulary or implementing changes to the uniform formulary.

(2) The Secretary shall determine the size and membership of the panel established under paragraph (1), which shall include members that represent—

(A) nongovernmental organizations and associations that represent the views and interests of a large number of eligible covered beneficiaries;

(B) contractors responsible for the TRICARE retail pharmacy program;

(C) contractors responsible for the national mail-order pharmacy program; and

(D) TRICARE network providers.

(d) Procedures.—(1) In the operation of the pharmacy benefits program under subsection (a), the Secretary of Defense shall assure through management and new contractual arrangements that financial resources are aligned such that the cost of prescriptions is borne by the organization that is financially responsible for the health care of the eligible covered beneficiary.

(2) Effective not later than April 5, 2000, the Secretary shall use a modification to the bid price adjustment methodology in the current managed care support contracts to ensure equitable and timely reimbursement to the TRICARE managed care support contractors for pharmaceutical products delivered in the nonmilitary environments. The methodology shall take into account the "at-risk" nature of the contracts as well as managed care support contractor pharmacy costs attributable to changes to pharmacy service or formulary management at military medical treatment facilities, and other military activities and policies that affect costs of pharmacy benefits provided through the Civilian Health and Medical Program of the Uniformed Services. The methodology shall also account for military treatment facility costs attributable to the delivery of pharmaceutical products in the military facility environment which were prescribed by a network provider.

(e) Pharmacy Data Transaction Service.—The Secretary of Defense shall implement the use of the Pharmacy Data Transaction Service in all fixed facilities of the uniformed services under the jurisdiction of the Secretary, in the TRICARE retail pharmacy program, and in the national mail-order pharmacy program.

TMA Version - March 2009

TMA Version - March 2009

(f) Procurement of Pharmaceuticals by TRICARE Retail Pharmacy Program.—With respect to any prescription filled after January 28, 2008, the TRICARE retail pharmacy program shall be treated as an element of the Department of Defense for purposes of the procurement of drugs by Federal agencies under section 8126 of title 38 to the extent necessary to ensure that pharmaceuticals paid for by the Department of Defense that are provided by pharmacies under the program to eligible covered beneficiaries under this section are subject to the pricing standards in such section 8126.

(g) Definitions.—In this section:

(1) The term "eligible covered beneficiary" means a covered beneficiary for whom eligibility to receive pharmacy benefits through the means described in subsection (a)(2)(E) is established under this chapter or another provision of law.

(2) The term "pharmaceutical agent" means drugs, biological products, and medical devices under the regulatory authority of the Food and Drug Administration.

(h) Regulations.—The Secretary of Defense shall, after consultation with the other administering Secretaries, prescribe regulations to carry out this section.

NOTES

Source

(Added Pub. L. 106-65, div. A, title VII, Sec. 701(a)(1), Oct. 5, 1999, 113 Stat. 677; amended Pub. L. 106-398, Sec. 1 [[div. A], title X, Sec. 1087(a)(5)], Oct. 30, 2000, 114 Stat. 1654, 1654A-290; Pub. L. 107-107, div. A, title X, Sec. 1048(c)(4), Dec. 28, 2001, 115 Stat. 1226; Pub. L. 108-136, div. A, title VII, Sec. 725, Nov. 24, 2003, 117 Stat. 1535; Pub. L. 108-375, div. A, title VII, Sec. 714, Oct. 28, 2004, 118 Stat. 1985; Pub. L. 110-181, div. A, title VII, Sec. 703(a), Jan. 28, 2008, 122 Stat. 188; Pub. L. 111-84, div. A, title X, Sec. 1073(a)(10), Oct. 28, 2009, 123 Stat. 2473.)

References In Text

Subsection (g), referred to in subsecs. (a)(6)(A) and (b)(1), was redesignated subsection (h) of this section by Pub. L. 110-181, div. A, title VII, Sec. 703(a)(1), Jan. 28, 2008, 122 Stat. 188.

Amendments

2009—Subsec. (f). Pub. L. 111-84 substituted "after January 28, 2008" for "on or after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2008".

2008—Subsecs. (f) to (h). Pub. L. 110-181 added subsec. (f) and redesignated former subsecs. (f) and (g) as (g) and (h), respectively.

2004—Subsec. (a)(2)(E)(i). Pub. L. 108-375, Sec. 714(b), inserted before semicolon at end "and additional determinations by the Pharmacy and Therapeutics Committee of the relative clinical and cost effectiveness of the agents".
Subsec. (a)(6). Pub. L. 108-375, Sec. 714(a), designated existing provisions as subpar. (A) and added subpar. (B).

2003—Subsec. (b)(1). Pub. L. 108-136, Sec. 725(1), substituted "facilities and representatives of providers in facilities of the uniformed services" for "facilities, contractors responsible for the TRICARE retail pharmacy program, contractors responsible for the national mail-order pharmacy program, providers in facilities of the uniformed services, and TRICARE network providers" in second sentence.
Subsec. (c)(2). Pub. L. 108-136, Sec. 725(2), substituted "represent—" for "represent nongovernmental", inserted "(A) nongovernmental" before "organizations", substituted "beneficiaries;" for "beneficiaries.", and added subpars. (B) to (D).

2001—Subsec. (a)(8). Pub. L. 107-107 substituted "October 5, 1999," for "the date of the enactment of this section".

2000—Subsec. (a)(6). Pub. L. 106-398, Sec. 1 [[div. A], title X, Sec. 1087(a)(5)(A)], substituted "in the regulations prescribed" for "as part of the regulations established".
Subsec. (a)(7). Pub. L. 106-398, Sec. 1 [[div. A], title X, Sec. 1087(a)(5)(B)], substituted "that are not included on the uniform formulary but that are" for "not included on the uniform formulary, but,".
Subsec. (b)(1). Pub. L. 106-398, Sec. 1 [[div. A], title X, Sec. 1087(a)(5)(C)], substituted "prescribed under" for "required by" in last sentence.
Subsec. (d)(2). Pub. L. 106-398, Sec. 1 [[div. A], title X, Sec. 1087(a)(5)(D)], substituted "Effective not later than April 5, 2000, the Secretary shall use" for "Not later than 6 months after the date of the enactment of this section, the Secretary shall utilize".
Subsec. (e). Pub. L. 106-398, Sec. 1 [[div. A], title X, Sec. 1087(a)(5)(E)], substituted "The" for "Not later than April 1, 2000, the" and inserted "in" before "the TRICARE" and before "the national".
Subsec. (f). Pub. L. 106-398, Sec. 1 [[div. A], title X, Sec. 1087(a)(5)(F)], substituted "In this section:" for "As used in this section—" in introductory provisions, "The term" for "the term" in pars. (1) and (2), and a period for "; and" at end of par. (1).
Subsec. (g). Pub. L. 106-398, Sec. 1 [[div. A], title X, Sec. 1087(a)(5)(G)], substituted "prescribe" for "promulgate".

Regulations
Pub. L. 110-181, div. A, title VII, Sec. 703(b), Jan. 28, 2008, 122 Stat. 188, as amended by Pub. L. 110-417, [div. A], title X, Sec. 1061(b)(3), Oct. 14, 2008, 122 Stat. 4613; Pub. L. 111-84, div. A, title X, Sec. 1073(c)(12), Oct. 28, 2009, 123 Stat. 2475, provided that: "The Secretary of Defense shall, after consultation with the other administering Secretaries under chapter 55 of title 10, United States Code, modify the regulations under subsection (h) of section 1074g of title 10, United States Code (as redesignated by subsection (a)(1) of this section), to implement the requirements of subsection (f) of section 1074g of title 10, United States Code (as inserted by subsection (a)(2) of this section). The Secretary shall so modify such regulations not later than December 31, 2007."

[Pub. L. 111-84, div. A, title X, Sec. 1073(c), Oct. 28, 2009, 123 Stat. 2474, provided that the amendment made by section 1073(c)(12) to section 1061(b)(3) of Pub. L. 110-417, included in the credit set out above, is effective as of Oct. 14, 2008, and as if included in Pub. L. 110-417 as enacted.]

Termination Of Advisory Panels
Advisory panels established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a panel established by the President or an officer of the Federal Government, such panel is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a panel established by Congress, its duration is otherwise provided for by law. See sections 3(2) and 14 of Pub. L. 92-463,

TMA Version - March 2009

TMA Version - March 2009

Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

Demonstration Project On Coverage Of Selected Over-The-Counter Drugs Under The Pharmacy Benefits Program

Pub. L. 109-364, div. A, title VII, Sec. 705, Oct. 17, 2006, 120 Stat. 2280, provided that:

"(a) Requirement to Conduct Demonstration.—The Secretary of Defense shall conduct a demonstration project under section 1092 of title 10, United States Code, to allow particular over-the-counter drugs to be included on the uniform formulary under section 1074g of such title.

"(b) Elements of Demonstration Project.—

"(1) Inclusion of certain over-the-counter drugs.—(A) As part of the demonstration project, the Secretary shall modify uniform formulary specifications under section 1074g(a) of such title to include an over-the-counter drug (referred to in this section as an 'OTC drug') on the uniform formulary if the Pharmacy and Therapeutics Committee finds that the OTC drug is cost-effective and therapeutically equivalent to a prescription drug. If the Pharmacy and Therapeutics Committee makes such a finding, the OTC drug shall be considered to be in the same therapeutic class of pharmaceutical agents as the prescription drug.

"(B) An OTC drug shall be made available to a beneficiary through the demonstration project, but only if—

"(i) the beneficiary has a prescription for a drug requiring a prescription; and

"(ii) pursuant to subparagraph (A), the OTC drug—

"(I) is on the uniform formulary; and

"(II) has been determined to be therapeutically equivalent to the prescription drug.

"(2) Conduct through military facilities, retail pharmacies, or mail order program.—The Secretary shall conduct the demonstration project through at least two of the means described in subparagraph (E) of section 1074g(a)(2)(E) [sic] of such title through which OTC drugs are provided and may conduct the demonstration project throughout the entire pharmacy benefits program or at a limited number of sites. If the project is conducted at a limited number of sites, the number of sites shall be not less than five in each TRICARE region for each of the two means described in such subparagraph.

"(3) Period of demonstration.—The Secretary shall provide for conducting the demonstration project for a period of time necessary to evaluate the feasibility and cost effectiveness of the demonstration. Such period shall be at least as long as the period covered by pharmacy contracts in existence on the date of the enactment of this Act [Oct. 17, 2006] (including any extensions of the contracts), or five years, whichever is shorter.

"(4) Implementation deadline.—Implementation of the demonstration project shall begin not later than May 1, 2007.

"(c) Evaluation of Demonstration Project.—The Secretary shall evaluate the demonstration project for the following:

"(1) The costs and benefits of providing OTC drugs under the pharmacy benefits program in each of the means chosen by the Secretary to conduct the demonstration project.

"(2) The clinical effectiveness of providing OTC drugs under the pharmacy benefits program.

"(3) Customer satisfaction with the demonstration project.

"(d) Report.—Not later than two years after implementation of the demonstration project begins, the Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the demonstration project. The report shall contain—

"(1) the evaluation required by subsection (c);

"(2) recommendations for improving the provision of OTC drugs under the pharmacy benefits program; and

"(3) recommendations on whether permanent authority should be provided to cover OTC drugs under the pharmacy benefits program.

"(e) Continuation of Demonstration Project.—If the Secretary recommends in the report under subsection (d) that permanent authority should be provided, the Secretary may continue the demonstration project for up to one year after submitting the report.

"(f) Definitions.—In this section:

"(1) The term 'drug' means a drug, including a biological product, within the meaning of section 1074g(f)(2) [now 1074g(g)(2)] of title 10, United States Code.

"(2) The term 'OTC drug' has the meaning indicated for such term in subsection (b)(1)(A).

"(3) The term 'over-the-counter drug' means a drug that is not subject to section 503(b) of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 353(b)].

"(4) The term 'prescription drug' mean s a drug that is subject to section 503(b) of the Federal Food, Drug, and Cosmetic Act."

Interoperability Of Department Of Veterans Affairs And Department Of Defense Pharmacy Data Systems

Pub. L. 107-314, div. A, title VII, Sec. 724, Dec. 2, 2002, 116 Stat. 2598, provided that:

"(a) Interoperability.—The Secretary of Veterans Affairs and the Secretary of Defense shall seek to ensure that on or before October 1, 2004, the Department of Veterans Affairs pharmacy data system and the Department of Defense pharmacy data system (known as the 'Pharmacy Data Transaction System') are interoperable for both Department of Defense beneficiaries and Department of Veterans Affairs beneficiaries by achieving real-time interface, data exchange, and checking of prescription drug data of outpatients, and using national standards for the exchange of outpatient medication information.

"(b) Alternative Requirement.—If the interoperability specified in subsection (a) is not achieved by October 1, 2004, as determined jointly by the Secretary of Defense and the Secretary of Veterans Affairs, the Secretary of Veterans Affairs shall adopt the Department of Defense Pharmacy Data Transaction System for use by the Department of Veterans Affairs health care system. Such system shall be fully operational not later than October 1, 2005.

"(c) Implementation Funding for Alternative Requirement.—The Secretary of Defense shall transfer to the Secretary of Veterans Affairs, or shall otherwise bear the cost of, an amount sufficient to cover three-fourths of the cost to the Department of Veterans Affairs for computer programming activities and relevant staff training expenses related to implementation of subsection (b). Such amount shall be determined in such manner as agreed to by the two Secretaries."

Deadline For Establishment Of Committee

Pub. L. 106-65, div. A, title VII, Sec. 701(b), Oct. 5, 1999, 113 Stat. 680, directed the Secretary of Defense to establish the Pharmacy and Therapeutics Committee required by subsec. (b) of this section not later than 30 days after Oct. 5, 1999.

Reports Required

Pub. L. 106-65, div. A, title VII, Sec. 701(c), Oct. 5, 1999, 113 Stat. 680, directed the Secretary of Defense to submit reports to Congress, not later than Apr. 1 and Oct. 1 of fiscal years 2000 and 2001, on the implementation of the uniform formulary required under subsec. (a) of this section, the results of a survey conducted by the Secretary of prescribers for military medical treatment facilities and TRICARE contractors, the operation of the Pharmacy Data Transaction Service required by

TMA Version - March 2009

subsec. (e) of this section, and any other actions taken by the Secretary to improve management of the pharmacy benefits program under this section.

Study For Design Of Pharmacy Benefit For Certain Covered Beneficiaries
Pub. L. 106-65, div. A, title VII, Sec. 701(d), Oct. 5, 1999, 113 Stat. 680, required the Secretary of Defense to prepare and submit to Congress, by Apr. 15, 2001, a study on a design for a comprehensive pharmacy benefit for covered beneficiaries under chapter 55 of title 10, who are entitled to benefits under part A, and enrolled under part B, of title XVIII of the Social Security Act, and to provide an estimate of the costs of implementing and operating such design, prior to repeal by Pub. L. 107-107, div. A, title VII, Sec. 723, Dec. 28, 2001, 115 Stat. 1168.

Footnote
(1) See References in Text note below.

TMA Version - March 2009

§ 1074i. Reimbursement for certain travel expenses

(a) In General.—In any case in which a covered beneficiary is referred by a primary care physician to a specialty care provider who provides services more than 100 miles from the location in which the primary care provider provides services to the covered beneficiary, the Secretary of Defense shall provide reimbursement for reasonable travel expenses for the covered beneficiary and, when accompaniment by an adult is necessary, for a parent or guardian of the covered beneficiary or another member of the covered beneficiary's family who is at least 21 years of age.

(b) Reimbursement for Travel Under Exceptional Circumstances.—The Secretary of Defense may provide reimbursement for reasonable travel expenses of travel of members of the armed forces on active duty and their dependents, and accompaniment, to a specialty care provider not otherwise authorized by subsection (a) under such exceptional circumstances as the Secretary considers appropriate for purposes of this section.

(c) Outreach Program and Travel Reimbursement for Follow-on Specialty Care and Related Services.—The Secretary concerned shall ensure that an outreach program is implemented for each member of the uniformed services who incurred a combat-related disability and is entitled to retired or retainer pay, or equivalent pay, so that—

(1) the progress of the member is closely monitored; and

(2) the member receives the travel reimbursement authorized by subsection (a) whenever the member requires follow-on specialty care, services, or supplies.

(d) Definitions.—In this section:

(1) The term "specialty care provider" includes a dental specialist.

(2) The term "dental specialist" means an oral surgeon, orthodontist, prosthodontist, periodontist, endodontist, or pediatric dentist, and includes such other providers of dental care and services as determined appropriate by the Secretary of Defense.

(3) The term "combat-related disability" has the meaning given that term in section 1413a of this title.

TMA Version - March 2009

NOTES

Source
(Added Pub. L. 106-398, Sec. 1 [[div. A], title VII, Sec. 758(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A-199; amended Pub. L. 107-107, div. A, title VII, Sec. 706, Dec. 28, 2001, 115 Stat. 1163; Pub. L. 108-136, div. A, title VII, Sec. 712, Nov. 24, 2003, 117 Stat. 1530; Pub. L. 110-181, div. A, title XVI, Sec.

1632(a), (b), Jan. 28, 2008, 122 Stat. 458, 459; Pub. L. 111-84, div. A, title VI, Sec. 634, Oct. 28, 2009, 123 Stat. 2363.)

Amendments

2009—Subsec. (a). Pub. L. 111-84, Sec. 634(b), inserted "of Defense" after "the Secretary".
Subsecs. (b) to (d). Pub. L. 111-84, Sec. 634(a), added subsec. (b) and redesignated former subsecs. (b) and (c) as (c) and (d), respectively.

2008—Subsecs. (b), (c). Pub. L. 110-181, Sec. 1632(a), added subsec. (b) and redesignated former subsec. (b) as (c).
Subsec. (c)(3). Pub. L. 110-181, Sec. 1632(b), added par. (3).

2003—Pub. L. 108-136 inserted "(a) In General.—" before "In any case" and added subsec. (b).

2001—Pub. L. 107-107 inserted before period at end "and, when accompaniment by an adult is necessary, for a parent or guardian of the covered beneficiary or another member of the covered beneficiary's family who is at least 21 years of age".

Effective Date Of 2008 Amendment

Pub. L. 110-181, div. A, title XVI, Sec. 1632(c), Jan. 28, 2008, 122 Stat. 459, provided that: "Subsection (b) of section 1074i of title 10, United States Code, as added by subsection (a)(2), shall apply with respect to travel described in subsection (a) of such section that occurs on or after January 1, 2008, for follow-on specialty care, services, or supplies."

TMA Version - March 2009

§ 1074l. Notification to Congress of hospitalization of combat wounded members

(a) Notification Required.—The Secretary concerned shall provide notification of the hospitalization of any member of the armed forces evacuated from a theater of combat and admitted to a military treatment facility within the United States to the appropriate Members of Congress.

(b) Appropriate Members.—In this section, the term "appropriate Members of Congress", with respect to the member of the armed forces about whom notification is being made, means the Senators representing the State, and the Member, Delegate, or Resident Commissioner of the House of Representatives representing the district, that includes the member's home of record or a different location as provided by the member.

(c) Consent of Member Required.—The notification under subsection (a) may be provided only with the consent of the member of the armed forces about whom notification is to be made. In the case of a member who is unable to provide consent, information and consent may be provided by next of kin.

NOTES

Source
(Added Pub. L. 110-181, div. A, title XVI, Sec. 1617(a)(1), Jan. 28, 2008, 122 Stat. 449.)

Effective Date Of 2008 Amendment
Pub. L. 110-181, div. A, title XVI, Sec. 1617(a)(2), Jan. 28, 2008, 122 Stat. 449, provided that: "The notification requirement under section 1074l(a) of title 10, United States Code, as added by paragraph (1), shall apply beginning 60 days after the date of the enactment of this Act [Jan. 28, 2008]."

TMA Version - March 2009

1982—Subsec. (b). Pub. L. 97-252 provided for medical and dental care, for a dependent described in section 1072(2)(F) of this title, pursuant to clause (2) without regard to subclause (B) of such clause.

1980—Subsecs. (b), (d). Pub. L. 96-513 substituted "Secretary of Health and Human Services" for "Secretary of Health, Education, and Welfare".

1978—Subsec. (b). Pub. L. 95-397 substituted "Under regulations to be prescribed jointly by the Secretary of Defense and the Secretary of Health, Education, and Welfare, a dependent of a member or former member-" for "Under joint regulations to be prescribed by the Secretary of Defense and the Secretary of Health, Education, and Welfare, a dependent of a member or former member who is, or was at the time of his death, entitled to retired or retainer pay, or equivalent pay, may, upon request, be given the medical and dental care prescribed by section 1077 of this title in facilities of the uniformed services, subject to the availability of space and facilities and the capabilities of the medical and dental staff", added pars. (1), (2), and provisions following par. (2) relating to medical and dental care on request in facilities of the uniformed services subject to the availability of space, facilities and capabilities of staff, and excepting from such care provision a dependent of a member or former member until such member or former member would have attained age 60.

1966—Subsec. (b). Pub. L. 89-614 struck out provision which excepted from medical and dental care a member or former member who is, or was at the time of his death, entitled to retired pay under chapter 67 of this title and has served less than eight years on active duty (other than for training).

Effective Date Of 1997 Amendment
Section 1073(d)(1) of Pub. L. 105-85 provided that the amendment made by that section is effective Feb. 10, 1996, and as if included in the National Defense Authorization Act for Fiscal Year 1996, Pub. L. 104-106, as enacted.

Effective Date Of 1996 Amendment
Section 1501(c) of Pub. L. 104-106 provided that the amendment made by that section is effective as of Dec. 1, 1994, and as if included as an amendment made by the Reserve Officer Personnel Management Act, title XVI of Pub. L. 103-337, as originally enacted.

Effective Date Of 1994 Amendment
Amendment by section 1671(c)(7)(A) of Pub. L. 103-337 effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103-337, set out as an Effective Date note under section 10001 of this title.

Effective Date Of 1989 Amendment
Amendment by section 731(c)(1) of Pub. L. 101-189 applicable to a person referred to in 10 U.S.C. 1072(2)(H) whose decree of divorce, dissolution, or annulment becomes final on or after Nov. 29, 1989, and to a person so referred to whose decree became final during the period from Sept. 29, 1988 to Nov. 28, 1989, as if the amendment had become effective on Sept. 29, 1988, see section 731(d) of Pub. L. 101-189, set out as a note under section 1072 of this title.

Effective Date Of 1988 Amendment
Section 651(d) of Pub. L. 100-456 provided that: "Section 1076(f) of title 10, United States Code, as added by subsection (a), shall take effect on the date of enactment of this Act [Sept. 29, 1988] or 30

TMA Version - March 2009

TMA Version - March 2009

days after the Secretary of Defense first makes available a conversion health policy (as defined in such section), whichever is later. Such section shall apply to persons whose decree of divorce, dissolution, or annulment becomes final after the date of the enactment of this Act."

Effective Date Of 1986 Amendment
Amendment by section 604 of Pub. L. 99-661 applicable with respect to persons who, after Nov. 14, 1986, incur or aggravate an injury, illness, or disease or die, see section 604(g) of Pub. L. 99-661, set out as a note under section 1074a of this title. Section 652(e)(3) of Pub. L. 99-661 provided that: "The amendment made by subsection (c) [amending this section] shall apply only with respect to dependents who request medical or dental care on or after the date of the enactment of this Act [Nov. 14, 1986]."

Effective Date Of 1985 Amendment
Section 652(c) of Pub. L. 99-145 provided that: "The amendments made by this section [amending this section and section 1086 of this title] shall apply only with respect to dependents of members of the uniformed services whose deaths occur after September 30, 1985."

Effective Date Of 1982 Amendment; Transition Provisions
Amendment by Pub. L. 97-252 effective Feb. 1, 1983, and applicable in the case of any former spouse of a member or former member of the uniformed services whether final decree of divorce, dissolution, or annulment of marriage of former spouse and such member or former member is dated before, on, or after Feb. 1, 1983, see section 1006 of Pub. L. 97-252, set out as an Effective Date; Transition Provisions note under section 1408 of this title.

Effective Date Of 1980 Amendment
Amendment by Pub. L. 96-513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96-513, set out as a note under section 101 of this title.

Effective Date Of 1978 Amendment
Section 302 of Pub. L. 95-397 provided that: "The amendment made by section 301 [amending this section] shall become effective on October 1, 1978, or on the date of the enactment of this Act [Sept. 30, 1978], whichever is later."

Effective Date Of 1966 Amendment
For effective date of amendment by Pub. L. 89-614, see section 3 of Pub. L. 89-614, set out as a note under section 1071 of this title.

Stipend For Members Of Reserve Components For Health Care For Certain Dependents
Pub. L. 110-181, div. A, title VII, Sec. 704, Jan. 28, 2008, 122 Stat. 188, provided that: "The Secretary of Defense may, pursuant to regulations prescribed by the Secretary, pay a stipend to a member of a reserve component of the Armed Forces who is called or ordered to active duty for a period of more than 30 days for purposes of maintaining civilian health care coverage for a dependant whom the Secretary determines to possess a special health care need that would be best met by remaining in the member's civilian health plan. In making such determination, the Secretary shall consider whether—

(1) the dependent of the member was receiving treatment for the special health care need before the call or order to active duty of the member; and
(2) the call or order to active duty would result in an interruption in treatment or a change in health care provider for such treatment."

Transitional Health Care For Members, Or Dependents Of Members, Upon Release Of Member From Active Duty In Connection With Operation Desert Storm

Pub. L. 102-25, title III, Sec. 313, Apr. 6, 1991, 105 Stat. 85, provided that:

"(a) Health Care Provided.—A member of the Armed Forces described in subsection (b), and the dependents of the member, shall be entitled to receive health care described in subsection (c) upon the release of the member from active duty in connection with Operation Desert Storm until the earlier of—

"(1) 30 days after the date of the release of the member from active duty; or

"(2) the date on which the member and the dependents of the member are covered by a health plan sponsored by an employer.

"(b) Eligible Member Described.—A member of the Armed Forces referred to in subsection (a) is a member who—

"(1) is a member of a reserve component of the Armed Forces and is called or ordered to active duty under chapter 39 of title 10, United States Code, in connection with Operation Desert Storm;

"(2) is involuntarily retained on active duty under section 673c [now 12305] of title 10, United States Code, in connection with Operation Desert Storm; or

"(3) voluntarily agrees to remain on active duty for a period of less than one year in connection with Operation Desert Storm.

"(c) Health Care Described.—The health care referred to in subsection (a) is—

"(1) medical and dental care under section 1076 of title 10, United States Code, in the same manner as a dependent described in subsection (a)(2) of that section; and

"(2) health benefits contracted under the authority of section 1079(a) of that title and subject to the same rates and conditions as apply to persons covered under that section.

"(d) Dependent Defined.—For purposes of this section, the term 'dependent' has the meaning given that term in section 1072(2) of title 10, United States Code."

Dependent; Qualification As; Transition

Section 651(c) of Pub. L. 100-456 provided that: "Any person who qualified as a dependent under section 645(c) of the Department of Defense Authorization Act, 1985 [Pub. L. 98-525, formerly set out as a note under section 1072 of this title], as in effect before its repeal by subsection (b), shall remain qualified as a dependent as specified in that section and shall become eligible for benefits in accordance with section 1076(f) of title 10, United States Code (as added by subsection (a)), when no longer qualified as a dependent pursuant to such section 645(c)."

TMA Version - March 2009

§ 1076a. TRICARE dental program

(a) Establishment of Dental Plans.—The Secretary of Defense may establish, and in the case of the dental plan described in paragraph (1) shall establish, the following voluntary enrollment dental plans:

(1) Plan for selected reserve and individual ready reserve.—A dental insurance plan for members of the Selected Reserve of the Ready Reserve and for members of the Individual Ready Reserve described in subsection 10144(b) of this title.

(2) Plan for other reserves.—A dental insurance plan for members of the Individual Ready Reserve not eligible to enroll in the plan established under paragraph (1).

(3) Plan for active duty dependents.—Dental benefits plans for eligible dependents of members of the uniformed services who are on active duty for a period of more than 30 days.

(4) Plan for ready reserve dependents.—A dental benefits plan for eligible dependents of members of the Ready Reserve of the reserve components who are not on active duty for more than 30 days.

(b) Administration of Plans.—The plans established under this section shall be administered under regulations prescribed by the Secretary of Defense in consultation with the other administering Secretaries.

(c) Care Available Under Plans.—Dental plans established under subsection (a) may provide for the following dental care:

(1) Diagnostic, oral examination, and preventive services and palliative emergency care.

(2) Basic restorative services of amalgam and composite restorations, stainless steel crowns for primary teeth, and dental appliance repairs.

(3) Orthodontic services, crowns, gold fillings, bridges, complete or partial dentures, and such other services as the Secretary of Defense considers to be appropriate.

(d) Premiums.—

(1) Premium sharing plans.—(A) The dental insurance plan established under subsection (a)(1) and the dental benefits plans established under subsection (a)(3) are premium sharing plans.

(B) Members enrolled in a premium sharing plan for themselves or for their dependents shall be required to pay a share of the premium charged for the benefits provided under the plan. The member's share of the premium charge may not exceed $20 per month for the enrollment.

TMA Version - March 2009

TMA Version - March 2009

(C) Effective as of January 1 of each year, the amount of the premium required under subparagraph (A) shall be increased by the percent equal to the lesser of—

(i) the percent by which the rates of basic pay of members of the uniformed services are increased on such date; or

(ii) the sum of one-half percent and the percent computed under section 5303(a) of title 5 for the increase in rates of basic pay for statutory pay systems for pay periods beginning on or after such date.

(D) The Secretary of Defense may reduce the monthly premium required to be paid under paragraph (1) in the case of enlisted members in pay grade E-1, E-2, E-3, or E-4 if the Secretary determines that such a reduction is appropriate to assist such members to participate in a dental plan referred to in subparagraph (A).

(2) Full premium plans.—(A) The dental insurance plan established under subsection (a)(2) and the dental benefits plan established under subsection (a)(4) are full premium plans.

(B) Members enrolled in a full premium plan for themselves or for their dependents shall be required to pay the entire premium charged for the benefits provided under the plan.

(3) Payment procedures.—A member's share of the premium for a plan established under subsection (a) may be paid by deductions from the basic pay of the member and from compensation paid under section 206 of title 37, as the case may be. The regulations prescribed under subsection (b) shall specify the procedures for payment of the premiums by enrollees who do not receive such pay.

(e) Copayments Under Premium Sharing Plans.—(1) Except as provided pursuant to paragraph (2), a member or dependent who receives dental care under a premium sharing plan referred to in subsection (d)(1) shall—

(A) in the case of care described in subsection (c)(1), pay no charge for the care;

(B) in the case of care described in subsection (c)(2), pay 20 percent of the charges for the care; and

(C) in the case of care described in subsection (c)(3), pay a percentage of the charges for the care that is determined appropriate by the Secretary of Defense, after consultation with the other administering Secretaries.

(2)(A) During a national emergency declared by the President or Congress and subject to regulations prescribed by the Secretary of Defense, the Secretary may waive, in whole or in part, the charges otherwise payable by a member of the Selected Reserve of the Ready Reserve or a member of the Individual Ready Reserve under paragraph (1) for the coverage of the member alone under the dental insurance plan established under subsection (a)(1) if the Secretary determines that such waiver of the charges would facilitate or ensure the readiness of a unit or individual for deployment.

(B) The waiver under subparagraph (A) may apply only with respect to charges for coverage of dental care required for readiness.

(f) Transfer of Members.—If a member whose dependents are enrolled in the plan established under subsection (a)(3) is transferred to a duty station where dental care is provided to the member's eligible dependents under a program other than that plan, the member may discontinue participation under the plan. If the member is later transferred to a duty station where dental care is not provided to such member's eligible dependents except under the plan established under subsection (a)(3), the member may re-enroll the dependents in that plan.

(g) Care Outside the United States.—The Secretary of Defense may exercise the authority provided under subsection (a) to establish dental insurance plans and dental benefits plans for dental benefits provided outside the United States for the eligible members and dependents of members of the uniformed services. In the case of such an overseas dental plan, the Secretary may waive or reduce any copayments required by subsection (e) to the extent the Secretary determines appropriate for the effective and efficient operation of the plan.

(h) Waiver of Requirements for Surviving Dependents.—The Secretary of Defense may waive (in whole or in part) any requirements of a dental plan established under this section as the Secretary determines necessary for the effective administration of the plan for a dependent who is an eligible dependent described in subsection (k)(2).

(i) Authority Subject to Appropriations.—The authority of the Secretary of Defense to enter into a contract under this section for any fiscal year is subject to the availability of appropriations for that purpose.

(j) Limitation on Reduction of Benefits.—The Secretary of Defense may not reduce benefits provided under a plan established under this section until—

(1) the Secretary provides notice of the Secretary's intent to reduce such benefits to the Committees on Armed Services of the Senate and the House of Representatives; and

(2) one year has elapsed following the date of such notice.

(k) Eligible Dependent Defined.—(1) In this section, the term "eligible dependent" means a dependent described in subparagraph (A), (D), or (I) of section 1072(2) of this title.

(2) Such term includes any such dependent of a member who dies while on active duty for a period of more than 30 days or a member of the Ready Reserve if, on the date of the death of the member, the dependent—

(A) is enrolled in a dental benefits plan established under subsection (a); or

(B) if not enrolled in such a plan on such date—

(i) is not enrolled by reason of a discontinuance of a former enrollment under subsection (f); or

(ii) is not qualified for such enrollment because—

(I) the dependent is a child under the minimum age for such enrollment; or

TMA Version - March 2009

(II) the dependent is a spouse who is a member of the armed forces on active duty for a period of more than 30 days.

(3) Such term does not include a dependent by reason of paragraph (2) after the end of the three-year period beginning on the date of the member's death, except that, in the case of a dependent of the deceased who is described by subparagraph (D) or (I) of section 1072(2) of this title, the period of continued eligibility shall be the longer of the following periods beginning on such date:

(A) Three years.

(B) The period ending on the date on which such dependent attains 21 years of age.

(C) In the case of such dependent who, at 21 years of age, 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 administering Secretary and was, at the time of the member's death, in fact dependent on the member for over one-half of such dependent's support, the period ending on the earlier of the following dates:

(i) The date on which such dependent ceases to pursue such a course of study, as determined by the administering Secretary.

(ii) The date on which such dependent attains 23 years of age.

NOTES

Source

(Added Pub. L. 106-65, div. A, title VII, Sec. 711(a), Oct. 5, 1999, 113 Stat. 685; amended Pub. L. 106-398, Sec. 1 [[div. A], title VII, Sec. 704(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A-174; Pub. L. 107-314, div. A, title VII, Sec. 703, Dec. 2, 2002, 116 Stat. 2584; Pub. L. 108-375, div. A, title VII, Sec. 711, Oct. 28, 2004, 118 Stat. 1984; Pub. L. 109-163, div. A, title VII, Sec. 713, Jan. 6, 2006, 119 Stat. 3343; Pub. L. 110-417, [div. A], title VII, Sec. 735(b), Oct. 14, 2008, 122 Stat. 4514; Pub. L. 111-84, div. A, title VII, Sec. 704, Oct. 28, 2009, 123 Stat. 2373.)

Prior Provisions

A prior section 1076a, added Pub. L. 99-145, title VI, Sec. 651(a)(1), Nov. 8, 1985, 99 Stat. 655; amended Pub. L. 99-661, div. A, title VII, Sec. 707(a), (b), Nov. 14, 1986, 100 Stat. 3905; Pub. L. 102-190, div. A, title VII, Sec. 701, Dec. 5, 1991, 105 Stat. 1399; Pub. L. 102-484, div. A, title VII, Sec. 701(a)-(e), Oct. 23, 1992, 106 Stat. 2430; Pub. L. 103-337, div. A, title VII, Secs. 702(b), 703(a), 707(b), Oct. 5, 1994, 108 Stat. 2797, 2798, 2800; Pub. L. 105-85, div. A, title VII, Sec. 732, Nov. 18, 1997, 111 Stat. 1812; Pub. L. 105-261, div. A, title VII, Sec. 701(a)(1), (b), Oct. 17, 1998, 112 Stat. 2056; Pub. L. 106-65, div. A, title X, Sec. 1066(a)(8), Oct. 5, 1999, 113 Stat. 770; Pub. L. 106-398, Sec. 1 [[div. A], title X, Sec. 1087(d)(4)], Oct. 30, 2000, 114 Stat. 1654, 1654A-293, related to dependents' dental program, prior to repeal by Pub. L. 106-65, div. A, title VII, Sec. 711(a), Oct. 5, 1999, 113 Stat. 685.

TMA Version - March 2009

Amendments

2009—Subsec. (k)(3). Pub. L. 111-84 amended par. (3) generally. Prior to amendment, par. (3) read as follows: "Such term does not include a dependent by reason of paragraph (2) after the end of the three-year period beginning on the date of the member's death."

2008—Subsec. (e). Pub. L. 110-417 designated existing provisions as par. (1), substituted "Except as provided pursuant to paragraph (2), a member or dependent" for "A member or dependent", redesignated former pars. (1) to (3) as subpars. (A) to (C), respectively, of par. (1) and added par. (2).

2006—Subsec. (k). Pub. L. 109-163 reenacted heading without change and amended text generally. Prior to amendment, text read as follows: "In this section, the term 'eligible dependent'—

"(1) means a dependent described in subparagraph (A), (D), or (I) of section 1072(2) of this title; and

"(2) includes any such dependent of a member who dies while on active duty for a period of more than 30 days or a member of the Ready Reserve if, on the date of the death of the member, the dependent is enrolled in a dental benefits plan established under subsection (a), is not enrolled in such a plan by reason of a discontinuance of a former enrollment under subsection (f), or is not enrolled because the dependent is a child under the minimum age for enrollment, except that the term does not include the dependent after the end of the three-year period beginning on the date of the member's death."

2004—Subsec. (k)(2). Pub. L. 108-375 substituted "under subsection (a)," for "under subsection (a) or" and inserted "or is not enrolled because the dependent is a child under the minimum age for enrollment," after "under subsection (f),".

2002—Subsec. (k)(2). Pub. L. 107-314 substituted "if, on the date of the death of the member, the dependent is enrolled in a dental benefits plan established under subsection (a) or is not enrolled in such a plan by reason of a discontinuance of a former enrollment under subsection (f)" for "if the dependent is enrolled on the date of the death of the member in a dental benefits plan established under subsection (a)".

2000—Subsec. (k)(2). Pub. L. 106-398 substituted "three-year period" for "one-year period".

Authorization To Expand Enrollment In Dependents' Dental Program To Certain Members Returning From Overseas Assignments

Pub. L. 103-160, div. A, title VII, Sec. 703, Nov. 30, 1993, 107 Stat. 1687, provided that:

"(a) Authority To Expand Program.—After March 31, 1994, the Secretary of Defense may expand the dependents' dental program established under section 1076a of title 10, United States Code, to permit a member of the uniformed services described in subsection (b) to enroll dependents described in subsection (a) of such section in a dental benefits plan under the program without regard to the length of the uncompleted portion of the member's period of obligated service.

"(b) Covered Members.—A member referred to in subsection (a) is a member of the uniformed services who is—

"(1) on active duty for a period of more than 30 days (as defined in section 101(d)(2) of title 10, United States Code); and

"(2) reassigned from a permanent duty station where a dental benefits plan under the dependents' dental program is not available to a permanent duty station where such a plan is available.

TMA Version - March 2009

TMA Version - March 2009

"(c) Report on Advisability of Expansion.—Not later than February 28, 1994, the Secretary shall submit to Congress a report evaluating the advisability of expanding the enrollment eligibility of members of the uniformed services in the dependents' dental program in the manner authorized in subsection (a). The report shall include an analysis of the cost implications for such an expansion to the Federal Government, beneficiaries under the dependents' dental program, and contractors under the program.

"(d) Notification of Exercise of Authority.—The Secretary shall notify Congress of any decision to expand the enrollment eligibility of dependents in the dependents' dental program as provided in subsection (a) not later than 30 days before such expansion takes effect."

§ 1076d. TRICARE program: TRICARE Standard coverage for members of the Selected Reserve

TMA Version - March 2009

(a) Eligibility.—(1) Except as provided in paragraph (2), a member of the Selected Reserve of the Ready Reserve of a reserve component of the armed forces is eligible for health benefits under TRICARE Standard as provided in this section.

(2) Paragraph (1) does not apply to a member who is enrolled, or is eligible to enroll, in a health benefits plan under chapter 89 of title 5.

(b) Termination of Eligibility Upon Termination of Service.—Eligibility for TRICARE Standard coverage of a member under this section shall terminate upon the termination of the member's service in the Selected Reserve.

(c) Family Members.—While a member of a reserve component is covered by TRICARE Standard under the section, the members of the immediate family of such member are eligible for TRICARE Standard coverage as dependents of the member. If a member of a reserve component dies while in a period of coverage under this section, the eligibility of the members of the immediate family of such member for TRICARE Standard coverage shall continue for six months beyond the date of death of the member.

(d) Premiums.—(1) A member of a reserve component covered by TRICARE Standard under this section shall pay a premium for that coverage.

(2) The Secretary of Defense shall prescribe for the purposes of this section one premium for TRICARE Standard coverage of members without dependents and one premium for TRICARE Standard coverage of members with dependents referred to in subsection (f)(1). The premium prescribed for a coverage shall apply uniformly to all covered members of the reserve components.

(3)(A) The monthly amount of the premium in effect for a month for TRICARE Standard coverage under this section shall be the amount equal to 28 percent of the total monthly amount determined on an appropriate actuarial basis as being reasonable for that coverage.

(B) The appropriate actuarial basis for purposes of subparagraph (A) shall be determined, for each calendar year after calendar year 2009, by utilizing the actual cost of providing benefits under this section to members and their dependents during the calendar years preceding such calendar year.

(4) The premiums payable by a member of a reserve component under this subsection may be deducted and withheld from basic pay payable to the member under section 204 of title 37 or from compensation payable to the member under section 206 of such title. The Secretary shall prescribe the requirements and procedures applicable to the payment of premiums.

TMA Version - March 2009

(5) Amounts collected as premiums under this subsection shall be credited to the appropriation available for the Defense Health Program Account under section 1100 of this title, shall be merged with sums in such Account that are available for the fiscal year in which collected, and shall be available under subsection (b) of such section for such fiscal year.

(e) Regulations.—The Secretary of Defense, in consultation with the other administering Secretaries, shall prescribe regulations for the administration of this section.

(f) Definitions.—In this section:

(1) The term "immediate family", with respect to a member of a reserve component, means all of the member's dependents described in subparagraphs (A), (D), and (I) of section 1072(2) of this title.

(2) The term "TRICARE Standard" means—

(A) medical care to which a dependent described in section 1076(a)(2) of this title is entitled; and

(B) health benefits contracted for under the authority of section 1079(a) of this title and subject to the same rates and conditions as apply to persons covered under that section.

NOTES

Source

(Added Pub. L. 108-375, div. A, title VII, Sec. 701(a)(1), Oct. 28, 2004, 118 Stat. 1980; amended Pub. L. 109-163, div. A, title VII, Sec. 701(a)-(f)(1), Jan. 6, 2006, 119 Stat. 3339, 3340; Pub. L. 109-364, div. A, title VII, Secs. 704(c), 706(a)-(c), Oct. 17, 2006, 120 Stat. 2280, 2282; Pub. L. 110-181, div. A, title VII, Sec. 701(c), Jan. 28, 2008, 122 Stat. 188; Pub. L. 110-417, [div. A], title VII, Sec. 704(a), Oct. 14, 2008, 122 Stat. 4498; Pub. L. 111-84, div. A, title X, Sec. 1073(a)(11), Oct. 28, 2009, 123 Stat. 2473.)

Amendments

2009—Pub. L. 111-84 substituted "Standard" for "standard" in section catchline.

2008—Subsec. (d)(3). Pub. L. 110-417 designated existing provisions as subpar. (A), substituted "determined" for "that the Secretary determines", struck out at end "During the period beginning on April 1, 2006, and ending on September 30, 2008, the monthly amount of the premium may not be increased above the amount in effect for the month of March 2006.", and added subpar. (B). Pub. L. 110-181 substituted "September 30, 2008" for "September 30, 2007".

2006—Pub. L. 109-364, Sec. 706(c)(2), substituted "TRICARE standard coverage for members of the Selected Reserve" for "coverage for members of reserve components who commit to continued service in the Selected Reserve after release from active duty in support of a contingency operation" in section catchline.
Pub. L. 109-163, Sec. 701(f)(1), substituted "active duty in support of a contingency operation" for "active duty" in section catchline.

Subsec. (a). Pub. L. 109-364, Sec. 706(a), designated introductory provisions as par. (1), substituted "Except as provided in paragraph (2), a member" for "A member", substituted period at end for "after the member completes service on active duty to which the member was called or ordered for a period of more than 30 days on or after September 11, 2001, under a provision of law referred to in section 101(a)(13)(B), if the member—", added par. (2), and struck out former pars. (1) and (2) which read as follows:

> "(1) served continuously on active duty for 90 or more days pursuant to such call or order; and
> "(2) not later than 90 days after release from such active-duty service, entered into an agreement with the Secretary concerned to serve continuously in the Selected Reserve for a period of one or more whole years following such date."

Subsec. (a)(2). Pub. L. 109-163, Sec. 701(d), substituted "not later than 90 days after release" for "on or before the date of the release".
Subsec. (b). Pub. L. 109-364, Sec. 706(b), substituted "Termination of Eligibility Upon Termination of Service" for "Period of Coverage" in heading, struck out "(4)" before "Eligibility", and struck out pars. (1) to (3) and (5), which related to beginning of period of coverage, length of coverage period, period of coverage in the case of a member recalled to active duty, and coverage for a member of the Individual Ready Reserve.
Subsec. (b)(2). Pub. L. 109-163, Sec. 701(a)(2), substituted "Subject to paragraph (3) and unless earlier terminated under paragraph (4)" for "Unless earlier terminated under paragraph (3)".
Subsec. (b)(3), (4). Pub. L. 109-163, Sec. 701(a)(1), added par. (3) and redesignated former par. (3) as (4).
Subsec. (b)(5). Pub. L. 109-163, Sec. 701(b), added par. (5).
Subsec. (c). Pub. L. 109-163, Sec. 701(c), inserted at end "If a member of a reserve component dies while in a period of coverage under this section, the eligibility of the members of the immediate family of such member for TRICARE Standard coverage shall continue for six months beyond the date of death of the member."
Subsec. (d)(3). Pub. L. 109-364, Sec. 704(c), inserted at end "During the period beginning on April 1, 2006, and ending on September 30, 2007, the monthly amount of the premium may not be increased above the amount in effect for the month of March 2006."
Subsec. (e). Pub. L. 109-364, Sec. 706(c)(1)(A), (B), redesignated subsec. (g) as (e) and struck out heading and text of former subsec. (e). Text read as follows: "The service agreement required of a member of a reserve component under subsection (a)(2) is separate from any other form of commitment of the member to a period of obligated service in that reserve component and may cover any part or all of the same period that is covered by another commitment of the member to a period of obligated service in that reserve component.".
Subsec. (f)(2). Pub. L. 109-163, Sec. 701(e), amended par. (2) generally. Prior to amendment, par. (2) read as follows: "The term 'TRICARE Standard' means the Civilian Health and Medical Program of the Uniformed Services option under the TRICARE program."
Subsec. (f)(3). Pub. L. 109-364, Sec. 706(c)(1)(C), struck out par. (3) which read as follows: "The term 'member recalled to active duty' means, with respect to a member who is eligible for coverage under this section based on a period of active duty service, a member who is called or ordered to active duty for an additional period of active duty subsequent to the period of active duty on which that eligibility is based."
Pub. L. 109-163, Sec. 701(a)(3), added par. (3).
Subsec. (g). Pub. L. 109-364, Sec. 706(c)(1)(B), redesignated subsec. (g) as (e).

Effective Date Of 2008 Amendment

Pub. L. 110-417, [div. A], title VII, Sec. 704(c), Oct. 14, 2008, 122 Stat. 4499, provided that: "The amendments made by this section [amending this section] shall take effect as of October 1, 2008."

TMA Version - March 2009

TMA Version - March 2009

Effective Date Of 2006 Amendment

Pub. L. 109-364, div. A, title VII, Sec. 706(g), Oct. 17, 2006, 120 Stat. 2282, provided that: "The Secretary of Defense shall ensure that health care under TRICARE Standard is provided under section 1076d of title 10, United States Code, as amended by this section, beginning not later than October 1, 2007."

Savings Provision

Pub. L. 109-364, div. A, title VII, Sec. 706(f), Oct. 17, 2006, 120 Stat. 2282, as amended by Pub. L. 110-181, div. A, title VII, Sec. 706(a), Jan. 28, 2008, 122 Stat. 189, provided that:

"(1) Except as provided in paragraph (2), enrollments in TRICARE Standard that are in effect on the day before the date of the enactment of this Act [Oct. 17, 2006] under section 1076d of title 10, United States Code, as in effect on such day, shall be continued until terminated after such day under such section 1076d as amended by this section."

"(2) The enrollment of a member in TRICARE Standard that is in effect on the day before health care under TRICARE Standard is provided pursuant to the effective date in subsection (g) [set out as an Effective Date of 2006 Amendment note above] shall not be terminated by operation of the exclusion of eligibility under subsection (a)(2) of such section 1076d, as so amended, for the duration of the eligibility of the member under TRICARE Standard as in effect on October 16, 2006."

[Pub. L. 110-181, div. A, title VII, Sec. 706(b), Jan. 28, 2008, 122 Stat. 189, provided that: "The amendments made by subsection (a) [amending section 706(f) of Pub. L. 109-364, set out above] shall take effect on October 1, 2007."]

Implementation

Pub. L. 108-375, div. A, title VII, Sec. 701(b), Oct. 28, 2004, 118 Stat. 1981, provided that:

"(1) The Secretary of Defense shall implement section 1076d of title 10, United States Code, not later than 180 days after the date of the enactment of this Act [Oct. 28, 2004].

"(2)(A) A member of a reserve component of the Armed Forces who performed active-duty service described in subsection (a) of section 1076d of title 10, United States Code, for a period beginning on or after September 11, 2001, and was released from that active-duty service before the date of the enactment of this Act, or is released from that active-duty service on or within 180 days after the date of the enactment of this Act, may, for the purpose of paragraph (2) of such subsection, enter into an agreement described in such paragraph not later than one year after the date of the enactment of this Act. TRICARE Standard coverage (under such section 1076d) of a member who enters into such an agreement under this paragraph shall begin on the later of—

"(i) the date applicable to the member under subsection (b) of such section; or

"(ii) the date of the agreement.

"(B) The Secretary of Defense shall take such action as is necessary to ensure, to the maximum extent practicable, that members of the reserve components eligible to enter into an agreement as provided in subparagraph (A) actually receive information on the opportunity and procedures for entering into such an agreement together with a clear explanation of the benefits that the members are eligible to receive as a result of entering into such an agreement under section 1076d of title 10, United States Code."

§ 1076e. TRICARE program: TRICARE Standard coverage for certain members of the Retired Reserve who are qualified for a non-regular retirement but are not yet age 60

TMA Version - March 2009

(a) Eligibility.—(1) Except as provided in paragraph (2), a member of the Retired Reserve of a reserve component of the armed forces who is qualified for a non-regular retirement at age 60 under chapter 1223 of this title, but is not age 60, is eligible for health benefits under TRICARE Standard as provided in this section.

(2) Paragraph (1) does not apply to a member who is enrolled, or is eligible to enroll, in a health benefits plan under chapter 89 of title 5.

(b) Termination of Eligibility Upon Obtaining Other TRICARE Standard Coverage.—Eligibility for TRICARE Standard coverage of a member under this section shall terminate upon the member becoming eligible for TRICARE Standard coverage at age 60 under section 1086 of this title.

(c) Family Members.—While a member of a reserve component is covered by TRICARE Standard under this section, the members of the immediate family of such member are eligible for TRICARE Standard coverage as dependents of the member. If a member of a reserve component dies while in a period of coverage under this section, the eligibility of the members of the immediate family of such member for TRICARE Standard coverage under this section shall continue for the same period of time that would be provided under section 1086 of this title if the member had been eligible at the time of death for TRICARE Standard coverage under such section (instead of under this section).

(d) Premiums.—(1) A member of a reserve component covered by TRICARE Standard under this section shall pay a premium for that coverage.

(2) The Secretary of Defense shall prescribe for the purposes of this section one premium for TRICARE Standard coverage of members without dependents and one premium for TRICARE Standard coverage of members with dependents referred to in subsection (f)(1). The premium prescribed for a coverage shall apply uniformly to all members of the reserve components covered under this section.

(3) The monthly amount of the premium in effect for a month for TRICARE Standard coverage under this section shall be the amount equal to the cost of coverage that the Secretary determines on an appropriate actuarial basis.

(4) The Secretary shall prescribe the requirements and procedures applicable to the payment of premiums under this subsection.

(5) Amounts collected as premiums under this subsection shall be credited to the appropriation available for the Defense Health Program Account under section 1100 of this

title, shall be merged with sums in such Account that are available for the fiscal year in which collected, and shall be available under subsection (b) of such section for such fiscal year.

(e) Regulations.—The Secretary of Defense, in consultation with the other administering Secretaries, shall prescribe regulations for the administration of this section.

(f) Definitions.—In this section:

(1) The term "immediate family", with respect to a member of a reserve component, means all of the member's dependents described in subparagraphs (A), (D), and (I) of section 1072(2) of this title.

(2) The term "TRICARE Standard" means—

(A) medical care to which a dependent described in section 1076(b)(1) of this title is entitled; and

(B) health benefits contracted for under the authority of section 1086(a) of this title and subject to the same rates and conditions as apply to persons covered under that section.

NOTES

Source
(Added Pub. L. 111-84, div. A, title VII, Sec. 705(a), Oct. 28, 2009, 123 Stat. 2374.)

Effective Date
Pub. L. 111-84, div. A, title VII, Sec. 705(c), Oct. 28, 2009, 123 Stat. 2375, provided that: "Section 1076e of title 10, United States Code, as inserted by subsection (a), shall apply to coverage for months beginning on or after October 1, 2009, or such earlier date as the Secretary of Defense may specify."

TMA Version - March 2009

Subsec. (b)(2). Pub. L. 107-107, Sec. 702(2), substituted "Orthopedic footwear" for "Hearing aids, orthopedic footwear,".
Subsec. (e). Pub. L. 107-107, Sec. 702(3), added subsec. (e).
Subsec. (f). Pub. L. 107-107, Sec. 703(a)(2), added subsec. (f).

1997—Subsec. (a)(15). Pub. L. 105-85, Sec. 702(a), added cl. (15).
Subsec. (b)(2). Pub. L. 105-85, Sec. 702(b), added par. (2) and struck out former par. (2) which read as follows: "Prosthetic devices, hearing aids, orthopedic footwear, and spectacles except that—
"(A) outside the United States and at stations inside the United States where adequate civilian facilities are unavailable, such items may be sold to dependents at cost to the United States, and
"(B) artificial limbs, voice prostheses, and artificial eyes may be provided."

1996—Subsec. (a)(14). Pub. L. 104-201 added cl. (14).

1994—Subsec. (b)(2)(B). Pub. L. 103-337, Sec. 705, inserted ", voice prostheses," after "artificial limbs".
Subsec. (c). Pub. L. 103-337, Sec. 703(b), substituted ", dental care provided outside the United States, and dental care" for "and care".

1993—Subsec. (a)(13). Pub. L. 103-160 added cl. (13).

1991—Subsec. (a)(8). Pub. L. 102-190, Sec. 703, inserted before period at end ", including well-baby care that includes one screening of an infant for the level of lead in the blood of the infant".
Subsec. (d). Pub. L. 102-190, Sec. 702(a), added subsec. (d).

1985—Subsec. (c). Pub. L. 99-145 added subsec. (c).

1984—Pub. L. 98-525, Sec. 1405(22), substituted a colon for the semicolon in section catchline.
Subsec. (a)(10). Pub. L. 98-525, Sec. 633(a)(1), added cl. (10).
Former cl. (10) "Emergency dental care worldwide." was struck out.
Subsec. (a)(11). Pub. L. 98-525, Sec. 633(a)(1), redesignated cl. (13) as (11). Former cl. (11) "Routine dental care outside the United States and at stations in the United States where adequate civilian facilities are unavailable." was struck out.
Subsec. (a)(12). Pub. L. 98-525, Sec. 633(a)(1), redesignated cl. (14) as (12). Former cl. (12) "Dental care worldwide as a necessary adjunct of medical, surgical, or preventive treatment." was struck out.
Subsec. (a)(13), (14). Pub. L. 98-525, Sec. 633(a)(2), redesignated cls. (13) and (14) as cls. (11) and (12), respectively.
Subsec. (b)(3). Pub. L. 98-525, Sec. 1401(e)(3), added par. (3).

1966—Pub. L. 89-614 authorized an improved health benefits program for dependents of active duty members of the uniformed services in facilities of such services, expanding health care to be provided to include: hospitalization, outpatient care, and drugs in clauses (1) to (3) of subsec. (a) (hospitalization being limited by former subsec. (b) to treatment of nervous or mental disturbances or chronic diseases or for elective medical and surgical treatment to one year period in special cases); treatment of mental and surgical conditions in clause (4) minus acute condition restriction of former subsec. (a)(2); treatment of nervous, mental, and chronic conditions in clause (5) formerly restricted as stated above; clause (6) reenactment of former subsec. (a)(3); physical, including eye, examinations in clause (7) reenacting former subsec. (a)(4) immunization provisions; clause (8) reenactment of former subsec. (a)(5); diagnostic tests and services, including laboratory and X-ray

TMA Version - March 2009

TMA Version - March 2009

examinations (diagnosis being covered in former subsec. (a)(1)); dental care provisions in clauses (10) to (12) (provided in former subsec. (d)) as (1) emergency care to relieve pain and suffering, but not including permanent restorative work or dental prosthesis, (2) care as a necessary adjunct to medical or surgical treatment, and care outside the United States, and in remote areas inside the United States, where adequate civilian facilities are unavailable; ambulance service and home calls in clause 13 (covering former subsec. (c)(2), (3)); durable equipment on loan basis in clause (14); and to exclude in subsec. (b)(1) (incorporating last sentence of former subsec. (b)) custodial care; subsec. (b)(2)(A) reenactment of former subsec. (e)(1); and permitted in subsec. (b)(2)(B) artificial limbs and eyes to be provided.

Effective Date Of 1984 Amendment

Section 633(b) of Pub. L. 98-525 provided that: "The amendments made by subsection (a) [amending this section] shall take effect on July 1, 1985."

Amendment by section 1401(e)(3) of Pub. L. 98-525 effective Oct. 1, 1985, see section 1404 of Pub. L. 98-525, set out as an Effective Date note under section 520b of this title.

Effective Date Of 1966 Amendment

For effective date of amendment by Pub. L. 89-614, see section 3 of Pub. L. 89-614, set out as a note under section 1071 of this title.

Study, Plan, And Pilot For The Mental Health Care Needs Of Dependent Children Of Members Of The Armed Forces

Pub. L. 111-84, div. A, title VII, Sec. 722, Oct. 28, 2009, 123 Stat. 2387, provided that:

"(a) Report and Plan on the Mental Health Care and Counseling Services Available to Military Children.—

(1) In general.—The Secretary of Defense shall conduct a comprehensive review of the mental health care and counseling services available to dependent children of members of the Armed Forces through the Department of Defense.

(2) Elements.—The review under paragraph (1) shall include an assessment of the following:

(A) The availability, quality, and effectiveness of Department of Defense programs intended to meet the mental health care needs of military children.

(B) The availability, quality, and effectiveness of Department of Defense programs intended to promote resiliency in military children in coping with deployment cycles, injury, or death of military parents.

(C) The extent of access to, adequacy, and availability of mental health care and counseling services for military children in military medical treatment facilities, in family assistance centers, through Military OneSource, under the TRICARE program, and in Department of Defense Education Activity schools.

(D) Whether the status of a member of the Armed Forces on active duty, or in reserve active status, affects the access of a military child to mental health care and counseling services.

(E) Whether, and to what extent, waiting lists, geographic distance, and other factors may obstruct the receipt by military children of mental health care and counseling services.

(F) The extent of access to, availability, and viability of specialized mental health care for military children (including adolescents).

(G) The extent of any gaps in the current capabilities of the Department of Defense to provide preventive mental health services for military children.

(H) Such other matters as the Secretary considers appropriate.

(3) Report.—Not later than one year after the date of the enactment of this Act [Oct. 28, 2009], the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the review conducted under paragraph (1), including the findings and recommendations of the Secretary as a result of the review.

"(b) Comprehensive Plan for Improvements in Access to Care and Counseling.—The Secretary shall develop and implement a comprehensive plan for improvements in access to quality mental health care and counseling services for military children in order to develop and promote psychological health and resilience in children of deploying and deployed members of the Armed Forces. The information in the report required by subsection (a) shall provide the basis for the development of the plan.

"(c) Pilot Program.—

(1) Elements.—The Secretary of the Army shall carry out a pilot program on the mental health care needs of military children and adolescents. In carrying out the pilot program, the Secretary shall establish a center to—

(A) develop teams to train primary care managers in mental health evaluations and treatment of common psychiatric disorders affecting children and adolescents;

(B) develop strategies to reduce barriers to accessing behavioral health services and encourage better use of the programs and services by children and adolescents; and

(C) expand the evaluation of mental health care using common indicators, including—

(i) psychiatric hospitalization rates;

(ii) non-psychiatric hospitalization rates; and

(iii) mental health relative value units.

(2) Reports.—

(A) Not later than 90 days after establishing the pilot program, the Secretary of the Army shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report describing the—

(i) structure and mission of the program; and

(ii) the resources allocated to the program.

(B) Not later than September 30, 2012, the Secretary of the Army shall submit to the congressional defense committees a report that addresses the elements described under paragraph (1)."

Program For Mental Health Awareness For Dependents And Pilot Project On Post Traumatic Stress Disorder

Pub. L. 109-163, div. A, title VII, Sec. 721, Jan. 6, 2006, 119 Stat. 3346, provided that:

"(a) Program on Mental Health Awareness.—

"(1) Requirement.—Not later than one year after the date of the enactment of this Act [Jan. 6, 2006], the Secretary of Defense shall develop a program to improve awareness of the availability of mental health services for, and warning signs about mental health problems in, dependents of members of the Armed Forces whose sponsor served or will serve in a combat theater during the previous or next 60 days.

"(2) Matters covered.—The program developed under paragraph (1) shall be designed to—

"(A) increase awareness of mental health services available to dependents of members of the Armed Forces on active duty;

"(B) increase awareness of mental health services available to dependents of Reservists and National Guard members whose sponsors have been activated; and

"(C) increase awareness of mental health issues that may arise in dependents referred to in subparagraphs (A) and (B) whose sponsor is deployed to a combat theater.

TMA Version - March 2009

TMA Version - March 2009

"(3) Coordination.—The Secretary may permit the Department of Defense to coordinate the program developed under paragraph (1) with an accredited college, university, hospital-based, or community-based mental health center or engage mental health professionals to develop programs to help implement this section.

"(4) Availability in other languages.—The Secretary shall evaluate whether the effectiveness of the program developed under paragraph (1) would be improved by providing materials in languages other than English and take action accordingly[.]

"(5) Report.—Not later than one year after implementation of the program developed under paragraph (1), the Secretary shall submit to Congress a report on the effectiveness of the program, including the extent to which the program is used by low-English-proficient individuals.

"(b) Pilot Project on Post Traumatic Stress Disorder.—

"(1) Requirement.—The Secretary of Defense shall carry out a pilot project to evaluate the efficacy of various approaches to improving the capability of the military and civilian health care systems to provide early diagnosis and treatment of post traumatic stress disorder (PTSD) and other mental health conditions.

"(2) Internet-based diagnosis and treatment.—The pilot project shall be designed to evaluate—

"(A) Internet-based automated tools available to military and civilian health care providers for the early diagnosis and treatment of post traumatic stress disorder, and for tracking patients who suffer from post traumatic stress disorder; and

"(B) Internet-based tools available to family members of members of the Armed Forces in order to assist such family members in the identification of the emergence of post traumatic stress disorder.

"(3) Report.—Not later than June 1, 2006, the Secretary shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the pilot project. The report shall include a description of the pilot project, including the location of the pilot project and the scope and objectives of the pilot project."

Provision Of Domiciliary And Custodial Care For Certain CHAMPUS Beneficiaries

Pub. L. 106-65, div. A, title VII, Sec. 703, Oct. 5, 1999, 113 Stat. 682, as amended by Pub. L. 106-398, Sec. 1 [[div. A], title VII, Sec.701(a), (b), (c)(2)], Oct. 30, 2000, 114 Stat. 1654, 1654A-172, related to the continued provision of domiciliary and custodial care for certain CHAMPUS beneficiaries, prohibited the establishment of a limited transition period for such program, required a survey and report of case management and custodial care policies, and provided for cost limitations for each fiscal year, prior to repeal by Pub. L. 107-107, div. A, title VII, Sec. 701(g)(1)(A), Dec. 28, 2001, 115 Stat. 1161.

Obstetrical Care Facilities

Pub. L. 89-188, title VI, Sec. 610, Sept. 16, 1965, 79 Stat. 818, required that military hospitals in the United States and its possessions be constructed so as to include facilities for obstetrical care, prior to repeal by Pub. L. 97-214, Sec. 7(7), July 12, 1982, 96 Stat. 173, eff. Oct. 1, 1982.

§ 1078a. Continued health benefits coverage

(a) Provision of Continued Health Coverage.—The Secretary of Defense shall implement and carry out a program of continued health benefits coverage in accordance with this section to provide persons described in subsection (b) with temporary health benefits comparable to the health benefits provided for former civilian employees of the Federal Government and other persons under section 8905a of title 5.

(b) Eligible Persons.—The persons referred to in subsection (a) are the following:

(1) A member of the uniformed services who—

(A) is discharged or released from active duty (or full-time National Guard duty), whether voluntarily or involuntarily, under other than adverse conditions, as characterized by the Secretary concerned;

(B) immediately preceding that discharge or release, is entitled to medical and dental care under section 1074(a) of this title (except in the case of a member discharged or released from full-time National Guard duty); and

(C) after that discharge or release and any period of transitional health care provided under section 1145(a) of this title, would not otherwise be eligible for any benefits under this chapter.

(2) A person who—

(A) ceases to meet the requirements for being considered an unmarried dependent child of a member or former member of the uniformed services under section 1072(2)(D) of this title or ceases to meet the requirements for being considered an unmarried dependent under section 1072(2)(I) of this title;

(B) on the day before ceasing to meet those requirements, was covered under a health benefits plan under this chapter or transitional health care under section 1145(a) of this title as a dependent of the member or former member; and

(C) would not otherwise be eligible for any benefits under this chapter.

(3) A person who—

(A) is an unremarried former spouse of a member or former member of the uniformed services; and

(B) on the day before the date of the final decree of divorce, dissolution, or annulment was covered under a health benefits plan under this chapter or transitional health care under section 1145(a) of this title as a dependent of the member or former member; and

TMA Version - March 2009

TMA Version - March 2009

(C) is not a dependent of the member or former member under subparagraph (F) or (G) of section 1072(2) of this title or ends a one-year period of dependency under subparagraph (H) of such section.

(4) Any other person specified in regulations prescribed by the Secretary of Defense for purposes of this paragraph who loses entitlement to health care services under this chapter or section 1145 of this title, subject to such terms and conditions as the Secretary shall prescribe in the regulations.

(c) Notification of Eligibility.—(1) The Secretary of Defense shall prescribe regulations to provide for persons described in subsection (b) to be notified of eligibility to receive health benefits under this section.

(2) In the case of a member who becomes (or will become) eligible for continued coverage under subsection (b)(1), the regulations shall provide for the Secretary concerned to notify the member of the member's rights under this section as part of preseparation counseling conducted under section 1142 of this title or any other provision of other law.

(3) In the case of a dependent of a member or former member who becomes eligible for continued coverage under subsection (b)(2), the regulations shall provide that—

(A) the member or former member may submit to the Secretary concerned a written notice of the dependent's change in status (including the dependent's name, address, and such other information as the Secretary of Defense may require); and

(B) the Secretary concerned shall, within 14 days after receiving that notice, inform the dependent of the dependent's rights under this section.

(4) In the case of a former spouse of a member or former member who becomes eligible for continued coverage under subsection (b)(3), the regulations shall provide appropriate notification provisions and a 60-day election period under subsection (d)(3).

(d) Election of Coverage.—In order to obtain continued coverage under this section, an appropriate written election (submitted in such manner as the Secretary of Defense may prescribe) shall be made as follows:

(1) In the case of a member described in subsection (b)(1), the written election shall be submitted to the Secretary concerned before the end of the 60-day period beginning on the later of—

(A) the date of the discharge or release of the member from active duty or full-time National Guard duty;

(B) the date on which the period of transitional health care applicable to the member under section 1145(a) of this title ends; or

(C) the date the member receives the notification required pursuant to subsection (c).

(2)(A) In the case of a dependent of a member or former member who becomes eligible for continued coverage under subsection (b)(2), the written election shall be submitted to the Secretary concerned before the end of the 60-day period beginning on the later of—

(i) the date on which the dependent first ceases to meet the requirements for being considered a dependent under subparagraph (D) or (I) of section 1072(2) of this title; or

(ii) the date the dependent receives the notification pursuant to subsection (c).

(B) Notwithstanding subparagraph (A), if the Secretary concerned determines that the dependent's parent has failed to provide the notice referred to in subsection (c)(3)(A) with respect to the dependent in a timely fashion, the 60-day period under this paragraph shall be based only on the date under subparagraph (A)(i).

(3) In the case of a former spouse of a member or a former member who becomes eligible for continued coverage under subsection (b)(3), the written election shall be submitted to the Secretary concerned before the end of the 60-day period beginning on the later of—

(A) the date as of which the former spouse first ceases to meet the requirements for being considered a dependent under section 1072(2) of this title; or

(B) such other date as the Secretary of Defense may prescribe.

(4) In the case of a person described in subsection (b)(4), by such date as the Secretary shall prescribe in the regulations required for purposes of that subsection.

(e) Coverage of Dependents.—A person eligible under subsection (b)(1) to elect to receive coverage may elect coverage either as an individual or, if appropriate, for self and dependents. A person eligible under subsection (b)(2) or subsection (b)(3) may elect only individual coverage.

(f) Charges.—(1) Under arrangements satisfactory to the Secretary of Defense, a person receiving continued coverage under this section shall be required to pay into the Military Health Care Account or other appropriate account an amount equal to the sum of—

(A) the employee and agency contributions which would be required in the case of a similarly situated employee enrolled in a comparable health benefits plan under section 8905a(d)(1)(A)(i) of title 5; and

(B) an amount, not to exceed 10 percent of the amount determined under subparagraph (A), determined under regulations prescribed by the Secretary of Defense to be necessary for administrative expenses; and

(2) If a person elects to continue coverage under this section before the end of the applicable period under subsection (d), but after the person's coverage under this chapter (and any transitional extension of coverage under section 1145(a) of this title) expires, coverage shall be restored retroactively, with appropriate contributions (determined in accordance with paragraph (1)) and claims (if any), to the same extent and effect as though no break in coverage had occurred.

TMA Version - March 2009

TMA Version - March 2009

(g) Period of Continued Coverage.—(1) Continued coverage under this section may not extend beyond—

(A) in the case of a member described in subsection (b)(1), the date which is 18 months after the date the member ceases to be entitled to care under section 1074(a) of this title and any transitional care under section 1145 of this title, as the case may be;

(B) in the case of a person described in subsection (b)(2), the date which is 36 months after the date on which the person first ceases to meet the requirements for being considered a dependent under subparagraph (D) or (I) of section 1072(2) of this title;

(C) in the case of a person described in subsection (b)(3), except as provided in paragraph (4), the date which is 36 months after the later of—

(i) the date on which the final decree of divorce, dissolution, or annulment occurs; and

(ii) if applicable, the date the one-year extension of dependency under section 1072(2)(H) of this title expires.

(D) in the case of a person described in subsection (b)(4), the date that is 36 months after the date on which the person loses entitlement to health care services as described in that subsection.

(2) Notwithstanding paragraph (1)(B), if a dependent of a member becomes eligible for continued coverage under subsection (b)(2) during a period of continued coverage of the member for self and dependents under this section, extended coverage of the dependent under this section may not extend beyond the date which is 36 months after the date the member became ineligible for medical and dental care under section 1074(a) of this title and any transitional health care under section 1145(a) of this title.

(3) Notwithstanding paragraph (1)(C), if a person becomes eligible for continued coverage under subsection (b)(3) as the former spouse of a member during a period of continued coverage of the member for self and dependents under this section, extended coverage of the former spouse under this section may not extend beyond the date which is 36 months after the date the member became ineligible for medical and dental care under section 1074(a) of this title and any transitional health care under section 1145(a) of this title.

(4)(A) Notwithstanding paragraph (1), in the case of a former spouse described in subparagraph (B), continued coverage under this section shall continue for such period as the former spouse may request.

(B) A former spouse referred to in subparagraph (A) is a former spouse of a member or former member (other than a former spouse whose marriage was dissolved after the separation of the member from the service unless such separation was by retirement)—

(i) who has not remarried before age 55 after the marriage to the employee, former employee, or annuitant was dissolved;

(ii) who was enrolled in an approved health benefits plan under this chapter as a family member at any time during the 18-month period before the date of the divorce, dissolution, or annulment; and

(iii)(I) who is receiving any portion of the retired or retainer pay of the member or former member or an annuity based on the retired or retainer pay of the member; or

(II) for whom a court order (as defined in section 1408(a)(2) of this title) has been issued for payment of any portion of the retired or retainer pay or for whom a court order (as defined in section 1447(13) of this title) or a written agreement (whether voluntary or pursuant to a court order) provides for an election by the member or former member to provide an annuity to the former spouse.

TMA Version - March 2009

NOTES

Source
(Added Pub. L. 102-484, div. D, title XLIV, Sec. 4408(a)(1), Oct. 23, 1992, 106 Stat. 2708; amended Pub. L. 103-35, title II, Sec. 201(g)(1), May 31, 1993, 107 Stat. 99; Pub. L. 103-337, div. A, title VII, Sec. 702(c), Oct. 5, 1994, 108 Stat. 2798; Pub. L. 104-201, div. A, title X, Sec. 1074(a)(4), Sept. 23, 1996, 110 Stat. 2658; Pub. L. 105-85, div. A, title X, Sec. 1073(a)(17), Nov. 18, 1997, 111 Stat. 1901; Pub. L. 108-136, div. A, title VII, Sec. 713(a), Nov. 24, 2003, 117 Stat. 1530; Pub. L. 110-181, div. A, title VII, Sec. 705, Jan. 28, 2008, 122 Stat. 189.)

Amendments
2008—Subsec. (b)(4). Pub. L. 110-181, Sec. 705(a), added par. (4).
Subsec. (d)(4). Pub. L. 110-181, Sec. 705(b), added par. (4).
Subsec. (g)(1)(D). Pub. L. 110-181, Sec. 705(c), added subpar. (D).

2003—Subsec. (b)(1), (2)(A), (3)(A). Pub. L. 108-136 substituted "uniformed services" for "armed forces".

1997—Subsec. (g)(4)(B)(iii)(II). Pub. L. 105-85 substituted "section 1447(13)" for "section 1447(8)".

1996—Subsec. (a). Pub. L. 104-201 substituted "The Secretary" for "Beginning on October 1, 1994, the Secretary".

1994—Subsec. (b)(2)(A). Pub. L. 103-337, Sec. 702(c)(1), inserted before semicolon "or ceases to meet the requirements for being considered an unmarried dependent under section 1072(2)(I) of this title".
Subsec. (c)(3). Pub. L. 103-337, Sec. 702(c)(2), substituted "dependent" for "child" in two places and "dependent's" for "child's" wherever appearing.
Subsec. (d)(2)(A). Pub. L. 103-337, Sec. 702(c)(3), substituted "a dependent" for "a child" in introductory provisions, "the dependent" for "the child" in cls. (i) and (ii), and "a dependent under subparagraph (D) or (I) of section 1072(2) of this title;" for "an unmarried dependent child under section 1072(2)(D) of this title," in cl. (i).
Subsec. (d)(2)(B). Pub. L. 103-337, Sec. 702(c)(4), substituted "dependent's" for "child's" and "dependent" for "child".

Subsec. (g)(1)(B). Pub. L. 103-337, Sec. 702(c)(5), substituted "a dependent under subparagraph (D) or (I) of section 1072(2) of this title" for "an unmarried dependent child under section 1072(2)(D) of this title".
Subsec. (g)(2). Pub. L. 103-337, Sec. 702(c)(6), substituted "dependent" for "child" in two places.

1993—Subsec. (b)(3)(C). Pub. L. 103-35, Sec. 201(g)(1)(A), substituted "subparagraph" for "subparagraphs" after "member under".
Subsec. (d)(2)(A). Pub. L. 103-35, Sec. 201(g)(1)(B), inserted "under" after "coverage".

Effective Date Of 2003 Amendment
Pub. L. 108-136, div. A, title VII, Sec. 713(b), Nov. 24, 2003, 117 Stat. 1531, provided that: "The amendments made by subsection (a) [amending this section] shall apply to members of the uniformed services who are not otherwise covered by section 1078a of title 10, United States Code, before the date of the enactment of this Act [Nov. 24, 2003] and who, on or after such date, first meet the eligibility criteria specified in subsection (b) of that section."

TMA Version - March 2009

(f)(1) Members shall be required to share in the cost of any benefits provided to their dependents under subsection (d) as follows:

(A) Members in the lowest enlisted pay grade shall be required to pay the first $25 incurred each month, and members in the highest commissioned pay grade shall be required to pay the first $250 incurred each month. The amounts to be paid by members in all other pay grades shall be determined under regulations to be prescribed by the Secretary of Defense in consultation with the administering Secretaries.

(B) A member who has more than one dependent incurring expenses in a given month under a plan covered by subsection (d) shall not be required to pay an amount greater than would be required if the member had only one such dependent.

(2) In the case of extended benefits provided under paragraph (3) or (4) of subsection (e) to a dependent of a member of the uniformed services—

(A) the Government's share of the total cost of providing such benefits in any year shall not exceed $36,000, prorated as determined by the Secretary of Defense, except for costs that a member is exempt from paying under paragraph (3); and

(B) the member shall pay (in addition to any amount payable under paragraph (1)) the amount, if any, by which the amount of such total cost for the year exceeds the Government's maximum share under subparagraph (A).

(3) A member of the uniformed services who incurs expenses under paragraph (2) for a month for more than one dependent shall not be required to pay for the month under subparagraph (B) of that paragraph an amount greater than the amount the member would otherwise be required to pay under that subparagraph for the month if the member were incurring expenses under that subparagraph for only one dependent.

(4) To qualify for extended benefits under paragraph (3) or (4) of subsection (e), a dependent of a member of the uniformed services shall be required to use public facilities to the extent such facilities are available and adequate, as determined under joint regulations of the administering Secretaries.

(5) The Secretary of Defense, in consultation with the other administering Secretaries, shall prescribe regulations to carry out this subsection.

(g)(1) When a member dies while he is eligible for receipt of hostile fire pay under section 310 of title 37 or from a disease or injury incurred while eligible for such pay, his dependents who are receiving benefits under a plan covered by subsection (d) shall continue to be eligible for such benefits until they pass their twenty-first birthday.

(2) In addition to any continuation of eligibility for benefits under paragraph (1), when a member dies while on active duty for a period of more than 30 days, the member's dependents who are receiving benefits under a plan covered by subsection (a) shall continue to be eligible for benefits under TRICARE Prime during the three-year period beginning on the date of the member's death, except that, in the case of such a dependent of the deceased who is described

TMA Version - March 2009

TMA Version - March 2009

by subparagraph (D) or (I) of section 1072(2) of this title, the period of continued eligibility shall be the longer of the following periods beginning on such date:

(A) Three years.

(B) The period ending on the date on which such dependent attains 21 years of age.

(C) In the case of such a dependent who, at 21 years of age, 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 administering Secretary and was, at the time of the member's death, in fact dependent on the member for over one-half of such dependent's support, the period ending on the earlier of the following dates:

(i) The date on which such dependent ceases to pursue such a course of study, as determined by the administering Secretary.

(ii) The date on which such dependent attains 23 years of age.

(3) For the purposes of paragraph (2)(C), a dependent shall be treated as being enrolled in a full-time course of study in an institution of higher education during any reasonable period of transition between the dependent's completion of a full-time course of study in a secondary school and the commencement of an enrollment in a full-time course of study in an institution of higher education, as determined by the administering Secretary.

(4) The terms and conditions under which health benefits are provided under this chapter to a dependent of a deceased member under paragraph (2) shall be the same as those that would apply to the dependent under this chapter if the member were living and serving on active duty for a period of more than 30 days.

(5) In this subsection, the term "TRICARE Prime" means the managed care option of the TRICARE program.

(h)(1) Except as provided in paragraphs (2) and (3), payment for a charge for services by an individual health care professional (or other noninstitutional health care provider) for which a claim is submitted under a plan contracted for under subsection (a) shall be equal to an amount determined to be appropriate, to the extent practicable, in accordance with the same reimbursement rules as apply to payments for similar services under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.). The Secretary of Defense shall determine the appropriate payment amount under this paragraph in consultation with the other administering Secretaries.

(2) The Secretary of Defense, in consultation with the other administering Secretaries, shall prescribe regulations to provide for such exceptions to the payment limitations under paragraph (1) as the Secretary determines to be necessary to assure that covered beneficiaries retain adequate access to health care services. Such exceptions may include the payment of amounts higher than the amount allowed under paragraph (1) when enrollees in managed care programs obtain covered services from nonparticipating providers. To provide a suitable transition from the payment methodologies in effect before February 10, 1996, to the methodology required by paragraph (1), the amount allowable for any service may not be reduced by more than 15 percent below the amount allowed for the same service during the

(4) The Secretary of Defense may provide for coverage of a dependent referred to in subsection (a) who is not described in paragraph (3) if the Secretary determines that exceptional circumstances warrant such coverage.

(5) The Secretary of Defense shall consult with the other administering Secretaries in the administration of this subsection.

(q) Subject to subsection (a), a physician or other health care practitioner who is eligible to receive reimbursement for services provided under medicare (as defined in section 1086(d)(3)(C) of this title) shall be considered approved to provide medical care authorized under this section and section 1086 of this title unless the administering Secretaries have information indicating medicare, TRICARE, or other Federal health care program integrity violations by the physician or other health care practitioner.

TMA Version - March 2009

NOTES

Source

(Added Pub. L. 85-861, Sec. 1(25)(B), Sept. 2, 1958, 72 Stat. 1448; amended Pub. L. 89-614, Sec. 2(6), Sept. 30, 1966, 80 Stat. 863; Pub. L. 92-58, Sec. 1, July 29, 1971, 85 Stat. 157; Pub. L. 95-485, title VIII, Sec. 806(a)(1), Oct. 20, 1978, 92 Stat. 1622; Pub. L. 96-342, title VIII, Sec. 810(a), (b), Sept. 8, 1980, 94 Stat. 1097; Pub. L. 96-513, title V, Secs. 501(13), 511(36), (38), Dec. 12, 1980, 94 Stat. 2908, 2923; Pub. L. 96-552, Dec. 19, 1980, 94 Stat. 3254; Pub. L. 97-22, Sec. 11(a)(2), July 10, 1981, 95 Stat. 137; Pub. L. 97-86, title IX, Sec. 906(a)(1), Dec. 1, 1981, 95 Stat. 1117; Pub. L. 98-94, title IX, Sec. 931(a), title XII, Sec. 1268(4), Sept. 24, 1983, 97 Stat. 648, 705; Pub. L. 98-525, title VI, Sec. 632(a)(1), title XIV, Secs. 1401(e)(4), 1405(23), Oct. 19, 1984, 98 Stat. 2543, 2617, 2623; Pub. L. 98-557, Sec. 19(7), Oct. 30, 1984, 98 Stat. 2869; Pub. L. 99-661, div. A, title VI, Sec. 652(d), title VII, Sec. 703, Nov. 14, 1986, 100 Stat. 3889, 3900; Pub. L. 100-180, div. A, title VII, Secs. 721(a), 726(a), Dec. 4, 1987, 101 Stat. 1115, 1117; Pub. L. 100-456, div. A, title VI, Sec. 646(a), Sept. 29, 1988, 102 Stat. 1989; Pub. L. 101-189, div. A, title VII, Sec. 730(a), Nov. 29, 1989, 103 Stat. 1481; Pub. L. 101-510, div. A, title VII, Secs. 701(a), 702(a), 703(a), (b), 712(a), title XIV, Sec. 1484(g)(1), Nov. 5, 1990, 104 Stat. 1580, 1581, 1583, 1717; Pub. L. 102-25, title III, Sec. 316(b), Apr. 6, 1991, 105 Stat. 87; Pub. L. 102-190, div. A, title VII, Secs. 702(b), 711, 712(a), 713, Dec. 5, 1991, 105 Stat. 1400, 1402, 1403; Pub. L. 102-484, div. A, title VII, Sec. 704, title X, Secs. 1052(13), 1053(3), Oct. 23, 1992, 106 Stat. 2432, 2499, 2501; Pub. L. 103-35, title II, Sec. 202(a)(5), May 31, 1993, 107 Stat. 101; Pub. L. 103-160, div. A, title VII, Secs. 711, 716(c), Nov. 30, 1993, 107 Stat. 1688, 1693; Pub. L. 103-337, div. A, title VII, Secs. 702(a), 707(a), Oct. 5, 1994, 108 Stat. 2797, 2800; Pub. L. 104-106, div. A, title VII, Secs. 701, 731(a)-(d), Feb. 10, 1996, 110 Stat. 370, 380, 381; Pub. L. 104-201, div. A, title VII, Secs. 701(b)(2), 711, 731, 732, 735(c), Sept. 23, 1996, 110 Stat. 2587, 2590, 2597, 2599; Pub. L. 105-85, div. A, title VII, Sec. 735, Nov. 18, 1997, 111 Stat. 1813; Pub. L. 106-398, Sec. 1 [[div. A], title VII, Secs. 701(c)(1), 704(b), 722(b)(1), 757(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A-172, 1654A-175, 1654A-185, 1654A-198; Pub. L. 107-107, div. A, title VII, Secs. 701(b), (g)(2), 703(b), 707(a), (b), title X, Sec. 1048(c)(5), Dec. 28, 2001, 115 Stat. 1158, 1161-1163, 1226; Pub. L. 107-314, div. A, title VII, Secs. 701(a), Sec. 702, Sec. 705(a), Dec. 2, 2002, 116 Stat. 2583, 2584; Pub. L. 108-375, div. A, title VII, Sec. 705, Oct. 28, 2004, 118 Stat. 1983; Pub. L. 109-163, div. A, title VII, Secs. 714, 715(a), Jan. 6, 2006, 119 Stat. 3344; Pub. L. 109-364, div. A, title VII, Secs. 701, 702, 703(b), Oct. 17, 2006, 120 Stat. 2279; Pub. L. 110-417, [div. A], title VII, Sec. 732, Oct. 14, 2008, 122 Stat. 4511; Pub. L. 111-84, div. A, title X, Sec. 1073(a)(12), Oct. 28, 2009, 123 Stat. 2473.)

TMA Version - March 2009

HISTORICAL AND REVISION NOTES

REVISED SECTION	SOURCE (U.S. CODE)	SOURCE (STATUTES AT LARGE)
1079(a)	37:402(a)(2) (as applicable to 37:411(a)).	June 7, 1956, ch. 374, Secs. 102(a)(2) (as applicable to Sec. 201(a)), 201(a), (b), 204, 70 Stat. 250, 252, 253.
1079(b)	37:411(a). 37:411(b). 37:414.	

In subsection (a), the words "appointed, enlisted, inducted or called, ordered or conscripted in a uniformed service", in 37:402(a)(2) are omitted as surplusage, since it does not matter how a member became a member. The words "active duty for a period of more than 30 days" are substituted for the words "active duty or active duty for training pursuant to a call or order that does not specify a period of thirty days or less", in 37:402(a)(2), to reflect section 101(22) and (23) of this title. The words ", under the authority of this section," are substituted for the words "pursuant to the provisions of this title" to make clear that the section provides independent procurement authority. The words "all", "by the hospital", and "a period of", in 37:411(a), are omitted as surplusage. In subsection (a)(1), the word "rooms", in 37:411(a), is substituted for the word "accommodations". In subsection (a)(5), the word "services" is substituted for the word "procedures" and the word "performed" is substituted for the word "accomplished", in 37: 411(a). The words "or surgeon" are inserted for clarity.
In subsection (b), the word "variances" is substituted for the words "limitations, additions, exclusions". The words "or care other than that provided for in sections 1076-1078 of this title" are substituted for 37:414. The words "definitions, and related provisions", in 37:411(b), are omitted as surplusage, since the Secretary of an executive department has inherent authority to interpret laws and issue regulations.

References In Text
The Social Security Act, referred to in subsecs. (h)(1), (4)(A), (B)(i), (i)(3)(B)(ii), (C), (j)(1), (2), and (o)(2), is act Aug. 13, 1935, ch. 531, 49 Stat. 620, as amended. Part B of title XI of the Act is classified generally to part B (Sec. 1320c et seq.) of subchapter XI of chapter 7 of Title 42, The Public Health and Welfare. Titles XVIII and XIX of the Act are classified generally to subchapters XVIII (Sec. 1395 et seq.) and XIX (Sec. 1396 et seq.), respectively, of chapter 7 of Title 42. Parts A and B of title XVIII of the Act are classified generally to part A (Sec. 1395c et seq.) and part B (Sec. 1395j et seq.), respectively, of subchapter XVIII of chapter 7 of Title 42. Section 1861(m) of the Act is classified to section 1395x(m) of Title 42. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

Prior Provisions
Provisions similar to those in subsec. (a)(7) to (14) of this section were contained in the following appropriation acts, with the exception of the provisions similar to par. (14) which first appeared in Pub. L. 96-154:
Pub. L. 98-473, title I, Sec. 101(h) [title VIII, Secs. 8031, 8032, 8045], Oct. 12, 1984, 98 Stat. 1904, 1929, 1931.
Pub. L. 98-212, title VII, Secs. 737, 738, 752, Dec. 8, 1983, 97 Stat. 1445, 1447.
Pub. L. 97-377, title I, Sec. 101(c) [title VII, Secs. 740, 741, 756], Dec. 21, 1982, 96 Stat. 1833, 1857, 1860.
Pub. L. 97-114, title VII, Secs. 741, 742, 759, Dec. 29, 1981, 95 Stat. 1585, 1588.

Pub. L. 96-527, title VII, Secs. 742, 743, 763, Dec. 15, 1980, 94 Stat. 3088, 3092.
Pub. L. 96-154, title VII, Secs. 744, 745, 769, Dec. 21, 1979, 93 Stat. 1159, 1163.
Pub. L. 95-457, title VIII, Secs. 844, 845, Oct. 13, 1978, 92 Stat. 1251.
Pub. L. 95-111, title VIII, Secs. 843, 844, Sept. 21, 1977, 91 Stat. 907.
Pub. L. 94-419, title VII, Secs. 742, 743, Sept. 22, 1976, 90 Stat. 1298.
Pub. L. 94-212, title VII, Secs. 750, 751, Feb. 9, 1976, 90 Stat. 176.
Provisions similar to those added to subsec. (h)(2) of this section by section 1401(e)(4)(B) of Pub. L. 98-525 were contained in the following prior appropriation acts:
Pub. L. 98-473, title I, Sec. 101(h) [title VIII, Sec. 8077], Oct. 12, 1984, 98 Stat. 1904, 1938.
Pub. L. 98-212, title VII, Sec. 785, Dec. 8, 1983, 97 Stat. 1453. A prior section 1079, act Aug. 10, 1956, ch. 1041, 70A Stat. 84, related to establishment of right to vote, prior to repeal by Pub. L. 85-861, Sec. 36B(5), Sept. 2, 1958, 72 Stat. 1570, as superseded by the Federal Voting Assistance Act of 1955 which is classified to subchapter I-D (Sec. 1973cc et seq.) of chapter 20 of Title 42, The Public Health and Welfare.

Amendments

2009—Subsec. (f)(2)(B). Pub. L. 111-84 struck out period after "year".

2008—Subsec. (f)(2). Pub. L. 110-417 substituted "year shall not exceed $36,000, prorated as determined by the Secretary of Defense," for "month shall not exceed $2,500," in subpar. (A) and "year." for "month" in subpar. (B).

2006—Subsec. (a)(1). Pub. L. 109-364, Sec. 702, amended par. (1) generally. Prior to amendment, par. (1) read as follows: "With respect to dental care, only that care required as a necessary adjunct to medical or surgical treatment may be provided."
Subsec. (a)(2). Pub. L. 109-364, Sec. 703(b)(1), substituted "the schedule and method of cervical cancer screenings and breast cancer screenings" for "the schedule of pap smears and mammograms" in introductory provisions.
Subsec. (a)(2)(B). Pub. L. 109-364, Sec. 703(b)(2), substituted "cervical and breast cancer screenings" for "pap smears and mammograms".
Subsec. (a)(17). Pub. L. 109-364, Sec. 701, added par. (17).
Subsec. (g). Pub. L. 109-163, Sec. 715(a), designated existing provisions as par. (1), struck out last sentence which read "In addition, when a member dies while on active duty for a period of more than 30 days, the member's dependents who are receiving benefits under a plan covered by subsection (a) shall continue to be eligible for such benefits during the three-year period beginning on the date of the death of the member.", and added pars. (2) to (5).
Subsec. (p)(4), (5). Pub. L. 109-163, Sec. 714, added par. (4) and redesignated former par. (4) as (5).

2004—Subsec. (h)(4)(C). Pub. L. 108-375 added subpar. (C).

2002—Subsec. (i)(3). Pub. L. 107-314, Sec. 701(a), designated existing provisions as subpar. (A), substituted "Except as provided in subparagraph (B)," for "Except in the case of an emergency,", and added subpars. (B) and (C).
Subsec. (p)(1). Pub. L. 107-314, Sec. 702(1), substituted "dependents described in paragraph (3)" for "dependents referred to in subsection (a) of a member of the uniformed services referred to in section 1074(c)(3) of this title who are residing with the member".
Subsec. (p)(3), (4). Pub. L. 107-314, Sec. 702(2), (3), added par. (3) and redesignated former par. (3) as (4).
Subsec. (q). Pub. L. 107-314, Sec. 705(a), added subsec. (q).

TMA Version - March 2009

TMA Version - March 2009

2001—Subsec. (a)(5). Pub. L. 107-107, Sec. 703(b), amended par. (5) generally. Prior to amendment, par. (5) read as follows:
"Durable equipment, such as wheelchairs, iron lungs and hospital beds may be provided on a rental basis."
Subsec. (a)(17). Pub. L. 107-107, Sec. 701(g)(2), struck out par. (17) which read as follows:

"(17)(A) The Secretary of Defense may establish a program for the individual case management of a person covered by this section or section 1086 of this title who has extraordinary medical or psychological disorders and, under such a program, may waive benefit limitations contained in paragraphs (5) and (13) of this subsection or section 1077(b)(1) of this title and authorize the payment for comprehensive home health care services, supplies, and equipment if the Secretary determines that such a waiver is cost-effective and appropriate.

"(B) The total amount expended under subparagraph (A) for a fiscal year may not exceed $100,000,000."

Subsec. (d) to (f). Pub. L. 107-107, Sec. 701(b), added subsecs. (d) to (f) and struck out former subsecs. (d) to (f) which related to medical care provided for retarded or handicapped dependents, the requirement of members sharing in cost of benefits provided, and the requirement that members use public facilities to the extent available and adequate, respectively.
Subsec. (h)(2). Pub. L. 107-107, Sec. 1048(c)(5), substituted "February 10, 1996," for "the date of the enactment of this paragraph".
Subsec. (h)(4). Pub. L. 107-107, Sec. 707(b), designated existing provisions as subpar. (A) and added subpar. (B).
Subsec. (j)(2) to (4). Pub. L. 107-107, Sec. 707(a), designated existing provisions of subpar. (A) of par. (2) as par. (2) and substituted "shall be determined under joint regulations" for "may be determined under joint regulations", redesignated subpar. (B) of par. (2) as par. (4) and substituted therein "this subsection," for "subparagraph (A),", and added par. (3).

2000—Subsec. (a)(17). Pub. L. 106-398, Sec. 1 [[div. A], title VII, Sec. 701(c)(1)], designated existing provisions as subpar. (A) and added subpar. (B).
Subsec. (g). Pub. L. 106-398, Sec. 1 [[div. A], title VII, Sec. 704(b)], substituted "three-year period" for "one-year period". Subsec. (h)(5). Pub. L. 106-398, Sec. 1 [[div. A], title VII, Sec. 757(a)], added par. (5).
Subsec. (p). Pub. L. 106-398, Sec. 1 [[div. A], title VII, Sec. 722(b)(1)], added subsec. (p).

1997—Subsec. (h)(1). Pub. L. 105-85, Sec. 735(a), added par. (1) and struck out former par. (1) which read as follows: "Payment for a charge for services by an individual health care professional (or other noninstitutional health care provider) for which a claim is submitted under a plan contracted for under subsection (a) may not exceed the lesser of—

"(A) the amount equivalent to the 80th percentile of billed charges made for similar services in the same locality during the base period; or

"(B) an amount determined to be appropriate, to the extent practicable, in accordance with the same reimbursement rules as apply to payments for similar services under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.)."

Subsec. (h)(2). Pub. L. 105-85, Sec. 735(c)(2), redesignated par. (4) as (2).
Pub. L. 105-85, Sec. 735(a), struck out par. (2) which read as follows: "For the purposes of paragraph (1)(A), the 80th percentile of charges shall be determined by the Secretary of Defense, in consultation with the other administering Secretaries, and the base period shall be a period of twelve calendar months. The Secretary of Defense shall adjust the base period as frequently as he considers appropriate."
Subsec. (h)(3). Pub. L. 105-85, Sec. 735(c)(2), redesignated par. (5) as (3).

Pub. L. 105-85, Sec. 735(a), struck out par. (3) which read as follows: "For the purposes of paragraph (1)(B), the appropriate payment amount shall be determined by the Secretary of Defense, in consultation with the other administering Secretaries."
Subsec. (h)(4). Pub. L. 105-85, Sec. 735(c)(2), redesignated par. (4) as (2).
Subsec. (h)(5). Pub. L. 105-85, Sec. 735(c)(2), redesignated par. (5) as (3).
Pub. L. 105-85, Sec. 735(b), (c)(1), substituted "paragraph (2), the Secretary of Defense" for "paragraph (4), the Secretary" and inserted at end "With the consent of the health care provider, the Secretary is also authorized to reduce the authorized payment for certain health care services below the amount otherwise required by the payment limitations under paragraph (1)."
Subsec. (h)(6). Pub. L. 105-85, Sec. 735(c)(2), redesignated par. (6) as (4).

1996—Subsec. (a). Pub. L. 104-201, Sec. 731(b)(1), substituted "except as follows:" for "except that—" in introductory provisions.
Subsec. (a)(1). Pub. L. 104-201, Sec. 731(b)(2), (3), capitalized first letter of first word and substituted a period for the semicolon at end.
Subsec. (a)(2). Pub. L. 104-201, Sec. 731(b)(2), (3), capitalized first letter of first word and substituted a period for the semicolon at end.
Pub. L. 104-201, Sec. 701(b)(2), inserted "the schedule and method of colon and prostate cancer screenings," after "pap smears and mammograms," in introductory provisions and "or colon and prostate cancer screenings" after "pap smears and mammograms" in subpar. (B).
Pub. L. 104-106, Sec. 701, added par. (2) and struck out former par. (2) which read as follows: "routine physical examinations and immunizations of dependents over two years of age may only be provided when required in the case of dependents who are traveling outside the United States as a result of a member's duty assignment and such travel is being performed under orders issued by a uniformed service, except that pap smears and mammograms may be provided on a diagnostic or preventive basis;".
Subsec. (a)(3) to (12). Pub. L. 104-201, Sec. 731(b)(2), (3), capitalized first letter of first word and substituted a period for the semicolon at end.
Subsec. (a)(13). Pub. L. 104-201, Sec. 731(a), (b)(2), substituted "Any service" for "any service" and "paragraph (4)." for "paragraph (4);" and inserted at end "Pursuant to an agreement with the Secretary of Health and Human Services and under such regulations as the Secretary of Defense may prescribe, the Secretary of Defense may waive the operation of this paragraph in connection with clinical trials sponsored or approved by the National Institutes of Health if the Secretary of Defense determines that such a waiver will promote access by covered beneficiaries to promising new treatments and contribute to the development of such treatments."
Subsec. (a)(14), (15). Pub. L. 104-201, Sec. 731(b)(2), (3), capitalized first letter of first word and substituted a period for the semicolon at end.
Subsec. (a)(16). Pub. L. 104-201, Sec. 731(b)(2), (4), capitalized first letter of first word and substituted a period for "; and" at end.
Subsec. (a)(17). Pub. L. 104-201, Sec. 731(b)(2), capitalized first letter of first word.
Subsec. (h)(1). Pub. L. 104-106, Sec. 731(a), added par. (1) and struck out former par. (1) which read as follows: "Payment for a charge for services by an individual health-care professional (or other noninstitutional health-care provider) for which a claim is submitted under a plan contracted for under subsection (a) may be denied only to the extent that the charge exceeds the amount equivalent to the 80th percentile of billed charges made for similar services in the same locality during the base period."
Subsec. (h)(2). Pub. L. 104-106, Sec. 731(d), substituted "paragraph (1)(A)' for "paragraph (1)".
Subsec. (h)(3). Pub. L. 104-106, Sec. 731(b), added par. (3).
Subsec. (h)(4). Pub. L. 104-201, Sec. 711, struck out "emergency" before "services from nonparticipating providers."

TMA Version - March 2009

TMA Version - March 2009

Pub. L. 104-106, Sec. 731(c), added par. (4).
Subsec. (h)(5). Pub. L. 104-201, Sec. 732(2), added par. (5). Former par. (5) redesignated (6).
Pub. L. 104-106, Sec. 731(c), added par. (5).
Subsec. (h)(6). Pub. L. 104-201, Sec. 732(1), redesignated par. (5) as (6).
Subsec. (j)(1). Pub. L. 104-201, Sec. 735(c), inserted ", including any plan offered by a third-party payer (as defined in section 1095(h)(1) of this title)," after "or health plan".

1994—Subsec. (a). Pub. L. 103-337, Sec. 702(a)(1), substituted "dependents, as described in subparagraphs (A), (D), and (I) of section 1072(2) of this title," for "spouses and children".
Subsec. (d). Pub. L. 103-337, Sec. 702(a)(2), substituted "as described in subparagraph (A), (D), or (I) of section 1072(2)" for "as defined in section 1072(2)(A) or (D)".
Subsec. (g). Pub. L. 103-337, Sec. 707(a), inserted at end "In addition, when a member dies while on active duty for a period of more than 30 days, the member's dependents who are receiving benefits under a plan covered by subsection (a) shall continue to be eligible for such benefits during the one-year period beginning on the date of the death of the member."

1993—Subsec. (a)(7). Pub. L. 103-160, Sec. 716(c), substituted "except that those services may be provided in any case in which another insurance plan or program provides primary coverage for those services;" for "except that—

"(A) those services may be provided in any case in which another insurance plan or program provides primary coverage for those services; and

"(B) the Secretary of Defense may waive the 40-mile radius restriction with regard to the provision of a particular service before October 1, 1993, if the Secretary determines that the use of a different geographical area restriction will result in a more cost-effective provision of the service;".

Subsec. (a)(15). Pub. L. 103-35 made technical amendment to directory language of Pub. L. 102-484, Sec. 704(1). See 1992 Amendment note below.
Subsec. (o). Pub. L. 103-160, Sec. 711, added subsec. (o).

1992—Subsec. (a)(15). Pub. L. 102-484, Sec. 1053(3), made technical amendment to directory language of Pub. L. 102-190, Sec. 702(b)(1)(C). See 1991 Amendment note below.
Pub. L. 102-484, Sec. 704(1), as amended by Pub. L. 103-35, struck out "and" at end of par. (15).
Subsec. (a)(16). Pub. L. 102-484, Sec. 704(2), substituted "; and" for period at end.
Subsec. (a)(17). Pub. L. 102-484, Sec. 704(3), added par. (17).
Subsec. (j)(2)(B). Pub. L. 102-484, Sec. 1052(13), inserted a close parenthesis after "1395x(dd)(2)".

1991—Subsec. (a)(6). Pub. L. 102-25, Sec. 316(b), revived par. (6) as in effect on Feb. 14, 1991, thus negating amendment to par. (6) by Pub. L. 101-510, Sec. 703(a), from its original effective date (Feb. 15, 1991) to the effective date as amended (Oct. 1, 1991). See 1990 Amendment note and Effective Date of 1990 Amendment note below.
Subsec. (a)(7). Pub. L. 102-190, Sec. 711, substituted "except that—" and subpars. (A) and (B), for "except that such services may be provided in any case in which another insurance plan or program provides primary coverage for the services;".
Subsec. (a)(13). Pub. L. 102-190, Sec. 702(b)(1)(A), substituted "paragraph (4)" for "clause (4)".
Subsec. (a)(14). Pub. L. 102-190, Sec. 702(b)(1)(B), struck out "and" at end.
Subsec. (a)(15). Pub. L. 102-190, Sec. 702(b)(1)(C), as amended by Pub. L. 102-484, Sec. 1053(3), substituted "; and" for period at end.
Subsec. (a)(16). Pub. L. 102-190, Sec. 702(b)(1)(D), added par. (16).

Subsec. (i). Pub. L. 102-25, Sec. 316(b), revived subsec. (i) as in effect on Feb. 14, 1991, thus negating amendment to subsec. (i) by Pub. L. 101-510, Sec. 703(b), from its original effective date (Feb. 15, 1991) to the effective date as amended (Oct. 1, 1991).
See 1990 Amendment note and Effective Date of 1990 Amendment note below.
Subsec. (j)(1). Pub. L. 102-190, Sec. 713, inserted ", or covered by," after "person enrolled in".
Subsec. (j)(2)(B). Pub. L. 102-190, Sec. 702(b)(2), inserted "hospice program (as defined in section 1861(dd)(2) of the Social Security Act (42 U.S.C. 1395x(dd)(2)),".
Subsec. (n). Pub. L. 102-190, Sec. 712(a), added subsec. (n).

1990—Subsec. (a)(2). Pub. L. 101-510, Sec. 701(a), inserted before the semicolon ", except that pap smears and mammograms may be provided on a diagnostic or preventive basis".
Subsec. (a)(6). Pub. L. 101-510, Sec. 703(a), substituted "in excess of—" for "in excess of 60 days in any year;" and added subpars. (A) to (C).
Subsec. (a)(8). Pub. L. 101-510, Sec. 702(a)(1), inserted "(other than certified marriage and family therapists)" after "marital counselors" and inserted before semicolon "and services of certified marriage and family therapists may be provided consistent with such rules as may be prescribed by the Secretary of Defense, including credentialing criteria and a requirement that the therapists accept payment under this section as full payment for all services provided".
Subsec. (a)(13). Pub. L. 101-510, Sec. 702(a)(2), inserted "certified marriage and family therapist," after "psychologist,".
Subsec. (b)(2). Pub. L. 101-510, Sec. 712(a)(1), substituted "$150" for "$50" and inserted at end "Notwithstanding the preceding sentence, in the case of a dependent of an enlisted member in a pay grade below E-5, the initial deductible each fiscal year under this paragraph shall be limited to $50."
Subsec. (b)(3). Pub. L. 101-510, Sec. 712(a)(2), substituted "$300 (or in the case of the family group of an enlisted member in a pay grade below E-5, the first $100)" for "$100".
Subsec. (i). Pub. L. 101-510, Sec. 703(b), amended subsec. (i) generally. Prior to amendment, subsec. (i) read as follows: "The limitation in subsection (a)(6) does not apply in the case of inpatient mental health services—

"(1) provided under the program for the handicapped under subsection (d);
"(2) provided as residential treatment care;
"(3) provided as partial hospital care; or
"(4) provided pursuant to a waiver authorized by the Secretary of Defense because of extraordinary medical or psychological circumstances that are confirmed by review by a non-Federal health professional pursuant to regulations prescribed by the Secretary of Defense."

Subsec. (j)(2)(B). Pub. L. 101-510, Sec. 1484(g)(1), inserted "the term" after "In subparagraph (A),".

1989—Subsec. (h)(1), (2). Pub. L. 101-189 substituted "80th percentile" for "90th percentile".

1988—Subsec. (b)(1). Pub. L. 100-456, Sec. 646(a)(1), inserted provisions authorizing Secretary of Defense to exempt a patient from paying such amount if the hospital to which the patient is admitted does not impose a legal obligation on any of its patients to pay for inpatient care.
Subsec. (m). Pub. L. 100-456, Sec. 646(a)(2), added subsec. (m).

1987—Subsec. (a)(15). Pub. L. 100-180, Sec. 726(a), added par. (15).
Subsec. (b)(5). Pub. L. 100-180, Sec. 721(a), added par. (5).

1986—Subsec. (a)(7). Pub. L. 99-661, Sec. 703, substituted "provides primary coverage for the services" for "pays for at least 75 percent of the services".
Subsec. (l). Pub. L. 99-661, Sec. 652(d), added subsec. (l).

TMA Version - March 2009

TMA Version - March 2009

1984—Subsec. (a). Pub. L. 98-557, Sec. 19(7)(B), substituted reference to other administering Secretaries for reference to Secretary of Health and Human Services in provisions preceding cl. (1).
Subsec. (a)(3). Pub. L. 98-525, Sec. 632(a)(1), substituted "not more than one eye examination may be provided to a patient in any calendar year" for "eye examinations may not be provided".
Subsec. (a)(4). Pub. L. 98-557, Sec. 19(7)(A), substituted reference to the administering Secretaries for reference to the Secretary of Defense and the Secretary of Health and Human Services.
Subsec. (a)(7) to (14). Pub. L. 98-525, Sec. 1401(e)(4)(A), added cls. (7) to (14).
Subsecs. (b)(4), (c), (d). Pub. L. 98-557, Sec. 19(7)(A), substituted reference to the administering Secretaries for reference to the Secretary of Defense and the Secretary of Health and Human Services.
Subsec. (e). Pub. L. 98-525, Sec. 1405(23), substituted "under subsection (d) as follows:" for "under subsection (d)." in provisions preceding cl. (1).
Subsecs. (e)(1), (f). Pub. L. 98-557, Sec. 19(7)(A), substituted reference to the administering Secretaries for reference to the Secretary of Defense and the Secretary of Health and Human Services.
Subsec. (h)(2). Pub. L. 98-557, Sec. 19(7)(B), substituted reference to other administering Secretaries for reference to Secretary of Health and Human Services.
Pub. L. 98-525, Sec. 1401(e)(4)(B), substituted "The Secretary of Defense shall adjust the base period as frequently as he considers appropriate" for "The base period shall be adjusted at least once a year".
Subsec. (j)(2)(A). Pub. L. 98-557, Sec. 19(7)(A), substituted reference to the administering Secretaries for reference to the Secretary of Defense and the Secretary of Health and Human Services.
Subsec. (k)(1), (2). Pub. L. 98-557, Sec. 19(7)(B), substituted reference to other administering Secretaries for reference to Secretary of Health and Human Services.

1983—Subsec. (a). Pub. L. 98-94, Sec. 1268(4)(A), substituted "30" for "thirty" in provisions preceding par. (1).
Subsec. (a)(6). Pub. L. 98-94, Sec. 931(a)(1), added par. (6).
Subsec. (d). Pub. L. 98-94, Sec. 1268(4)(A), substituted "30" for "thirty".
Subsec. (g). Pub. L. 98-94, Sec. 1268(4)(B), struck out "of this section" after "subsection (d)".
Subsecs. (i) to (k). Pub. L. 98-94, Sec. 931(a)(2), added subsecs. (i) to (k).

1981—Subsec. (b)(4). Pub. L. 97-22 substituted "Secretary of Health and Human Services" for "Secretary of Health, Education, and Welfare".
Subsec. (h). Pub. L. 97-86 substituted reference to services of individual health-care professionals for former reference to physician services, struck out provisions that had used the concept of a predetermined charge level based upon customary charges, and inserted provisions requiring a readjustment of the base period at least once a year.

1980—Subsec. (a). Pub. L. 96-513, Sec. 511(36), (38)(A), substituted "Secretary of Health and Human Services" for "Secretary of Health, Education, and Welfare" wherever appearing, and "that—" for "that:".
Subsec. (a)(2). Pub. L. 96-342, Sec. 810(a)(1), inserted "of dependents over two years of age" after "immunizations".
Subsec. (a)(3). Pub. L. 96-342, Sec. 810(a)(2), struck out "routine care of the newborn, well-baby care, and" after "(3)".
Subsec. (b)(4). Pub. L. 96-552 added par. (4).
Pub. L. 96-513, Sec. 511(38)(B), substituted "percent" for "per centum" wherever appearing.

Subsec. (c). Pub. L. 96-513, Sec. 511(36), substituted "Secretary of Health and Human Services" for "Secretary of Health, Education, and Welfare".
Subsec. (d). Pub. L. 96-513, Secs. 501(13), 511(36), substituted "section 1072(2)(A) or (D) of this title" for "section 1072(2)(A), (C), or (E) of this title", and "Secretary of Health and Human Services" for "Secretary of Health, Education, and Welfare".
Subsec. (e). Pub. L. 96-513, Sec. 511(36), (38)(C), substituted "Secretary of Health and Human Services" for "Secretary of Health, Education, and Welfare", and "(d) as follows:" for "(d).".
Subsec. (e)(2). Pub. L. 96-342, Sec. 810(b), substituted "$1,000" for "$350".
Subsec. (f). Pub. L. 96-513, Sec. 511(36), substituted "Secretary of Health and Human Services" for "Secretary of Health, Education, and Welfare".
Subsec. (g). Pub. L. 96-513, Sec. 511(38)(D), struck out ", United States Code," after "37".
Subsec. (h). Pub. L. 96-513, Sec. 511(36), substituted "Secretary of Health and Human Services" for "Secretary of Health, Education, and Welfare".

1978—Subsec. (h). Pub. L. 95-485 added subsec. (h).

1971—Subsec. (g). Pub. L. 92-58 added subsec. (g).

1966—Subsec. (a). Pub. L. 89-614 struck out "dependent" before "spouses and children" and substituted sentence providing that "The types of health care authorized under this section, shall be the same as those provided under section 1076 of this title", enumerating exceptions in pars. (1) to (5) for former provisions which required the insurance, medical service, or health plans to include (1) hospitalization in semiprivate rooms for not more than 365 days for each admission, (2) medical and surgical care incident to hospitalization, (3) obstetrical and maternity service, including prenatal and postnatal care, (4) services of physician or surgeon before or after hospitalization for bodily injury or surgical operation, (5) diagnostic tests and services incident to hospitalization, and (6) payments by patient of hospital expenses, now incorporated in subsec. (b)(1).
Subsec. (b). Pub. L. 89-614 incorporated existing provisions of subsec. (a)(6) in par. (1) and added pars. (2) and (3). Former subsec. (b) authorized the Secretary of Defense to make variances from subsec. (a) requirements as appropriate other than outpatient care or care other than provided for in sections 1076 to 1078 of this title.
Subsecs. (c) to (f). Pub. L. 89-614 added subsecs. (c) to (f).

Effective Date Of 2006 Amendment
Pub. L. 109-163, div. A, title VII, Sec. 715(b), Jan. 6, 2006, 119 Stat. 3345, provided that: "The amendments made by subsection (a) [amending this section] shall take effect on October 7, 2001, and shall apply with respect to deaths occurring on or after that date."

Effective Date Of 2002 Amendment
Pub. L. 107-314, div. A, title VII, Sec. 701(b), Dec. 2, 2002, 116 Stat. 2583, provided that: "The amendments made by subsection (a) [amending this section] shall take effect October 1, 2003."
Pub. L. 107-314, div. A, title VII, Sec. 705(b), Dec. 2, 2002, 116 Stat. 2585, provided that: "The amendment made by subsection (a) [amending this section] shall apply with respect to any contract under the TRICARE program entered into on or after the date of the enactment of this Act [Dec. 2, 2002]."

Effective Date Of 2001 Amendment
Pub. L. 107-107, div. A, title VII, Sec. 707(c), Dec. 28, 2001, 115 Stat. 1164, provided that: "The amendments made by this section [amending this section] shall take effect on the date that is 90 days after the date of the enactment of this Act [Dec. 28, 2001]."

TMA Version - March 2009

TMA Version - March 2009

Effective Date Of 2000 Amendment
Pub. L. 106-398, Sec. 1 [[div. A], title VII, Sec. 701(c)(3)], Oct. 30, 2000, 114 Stat. 1654, 1654A-172, provided that: "The amendments made by paragraphs (1) and (2) [amending this section and provisions set out as a note under section 1077 of this title] shall apply to fiscal years after fiscal year 1999."
Amendment by section 1 [[div. A], title VII, Sec. 722(b)(1)] of Pub. L. 106-398 effective Oct. 1, 2001, see section 1 [[div. A], title VII, Sec. 722(c)(1)] of Pub. L. 106-398, set out as a note under section 1074 of this title.

Effective Date Of 1994 Amendment
Pub. L. 103-337, div. A, title VII, Sec. 707(c), Oct. 5, 1994, 108 Stat. 2801, provided that: "The amendments made by subsections (a) and (b) [amending this section and section 1076a of this title] shall apply with respect to the dependents described in such amendments of a member of a uniformed service who dies on or after October 1, 1993, while on active duty for a period of more than 30 days."

Effective Date Of 1993 Amendment
Amendment by Pub. L. 103-35 applicable as if included in the enactment of Pub. L. 102-484, see section 202(b) of Pub. L. 103-35, set out as a note under section 155 of this title.

Effective Date Of 1992 Amendment
Section 1053(3) of Pub. L. 102-484 provided that the amendment made by that section is effective Dec. 5, 1991.

Effective Date Of 1991 Amendment
Section 316(b) of Pub. L. 102-25 provided that the amendment made by that section is effective Feb. 15, 1991.

Effective Date Of 1990 Amendment
Section 701(b) of Pub. L. 101-510 provided that: "The amendment made by subsection (a) [amending this section] shall apply to the provision of pap smears and mammograms under section 1079 or 1086 of title 10, United States Code, on or after the date of the enactment of this Act [Nov. 5, 1990]."
Section 702(b) of Pub. L. 101-510 provided that: "The amendments made by subsection (a) [amending this section] shall apply with respect to the services of certified marriage and family therapists provided under section 1079 or 1086 of title 10, United States Code, on or after the date of the enactment of this Act [Nov. 5, 1990]."
Section 703(d) of Pub. L. 101-510, as amended by Pub. L. 102-25, title III, Sec. 316(a)(1), Apr. 6, 1991, 105 Stat. 87, provided that: "This section and the amendments made by this section [amending this section] shall take effect on October 1, 1991, and shall apply with respect to mental health services provided under section 1079 or 1086 of title 10, United States Code, on or after that date."
Section 712(c) of Pub. L. 101-510 provided that: "The amendments made by this section [amending this section and section 1086 of this title] shall apply with respect to health care provided under sections 1079 and 1086 of title 10, United States Code, on or after April 1, 1991."

Effective Date Of 1989 Amendment
Section 730(b) of Pub. L. 101-189 provided that: "The amendment made by subsection (a) [amending this section] shall apply to services provided on or after October 1, 1989."

Effective Date Of 1988 Amendment
Section 646(c) of Pub. L. 100-456 provided that: "The amendments made by subsections (a) and (b) [amending this section and section 1086 of this title] shall apply with respect to medical care received after September 30, 1988."

Effective Date Of 1987 Amendment
Section 721(c) of Pub. L. 100-180 provided that: "Paragraph (5) of section 1079(b) of title 10, United States Code, as added by subsection (a), and paragraph (4) of section 1086(b) of such title, as added by subsection (b), shall apply with respect to fiscal years beginning after September 30, 1987."
Section 726(b) of Pub. L. 100-180 provided that: "Paragraph (15) of section 1079(a) of such title, as added by subsection (a), shall apply with respect to costs incurred for home monitoring equipment after the date of the enactment of this Act [Dec. 4, 1987]."

Effective Date Of 1986 Amendment
Section 652(e)(4) of Pub. L. 99-661 provided that: "The amendment made by subsection (d) [amending this section] shall apply only with respect to care furnished under section 1079 of title 10, United States Code, on or after the date of the enactment of this Act [Nov. 14, 1986]."

Effective Date Of 1984 Amendment
Section 632(a)(3) of Pub. L. 98-525 provided that: "The amendments made by this subsection [amending this section and section 1086 of this title] shall apply only to health care furnished after September 30, 1984."
Amendment by section 1401(e)(4) of Pub. L. 98-525 effective Oct. 1, 1985, see section 1404 of Pub. L. 98-525, set out as an Effective Date note under section 520b of this title.

Effective Date Of 1983 Amendment
Section 931(c) of Pub. L. 98-94 provided that: "The amendments made by this section [amending this section and section 1086 of this title] shall take effect on October 1, 1983, except that—

> "(1) clause (6) of section 1079(a) of title 10, United States Code, as added by subsection (a)(1), shall not apply in the case of inpatient mental health services provided to a patient admitted before January 1, 1983, for so long as that patient remains continuously in inpatient status for medically or psychologically necessary reasons; and
> "(2) subsection (k) of section 1079 of such title, as added by subsection (a)(1), shall apply with respect to liver transplant operations performed on or after July 1, 1983."

Effective Date Of 1981 Amendment
Section 906(b) of Pub. L. 97-86 provided that: "The amendments made by subsection (a) [amending this section and section 1086 of this title] shall apply with respect to claims submitted for payment for services provided after the end of the 30-day period beginning on the date of the enactment of this Act [Dec. 1, 1981]."

Effective Date Of 1980 Amendments
Amendment by section 501(13) of Pub. L. 96-513 effective Sept. 15, 1981, see section 701 of Pub. L. 96-513, set out as a note under section 101 of this title.
Amendment by section 511 of Pub. L. 96-513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96-513. Section 810(c) of Pub. L. 96-342 provided that: "The amendments made by this section [amending this section] shall apply to medical care provided after September 30, 1980."

TMA Version - March 2009

TMA Version - March 2009

Effective Date Of 1978 Amendment
Section 806(b) of Pub. L. 95-485 provided that: "the amendments made by subsection (a) [amending this section and section 1086 of this title] shall apply with respect to claims submitted for payment for services provided on or after the first day of the first calendar year beginning after the date of enactment of this Act [Oct. 20, 1978]."

Effective Date Of 1971 Amendment
Section 2 of Pub. L. 92-58 provided that: "This Act [amending this section] becomes effective as of January 1, 1967. However, no person is entitled to any benefits because of this Act for any period before the date of enactment [July 29, 1971]."

Effective Date Of 1966 Amendment
For effective date of amendment by Pub. L. 89-614, see section 3 of Pub. L. 89-614, set out as a note under section 1071 of this title.

Waiver Of Copayments For Preventive Services For Certain TRICARE Beneficiaries
Pub. L. 110-417, [div. A], title VII, Sec. 711, Oct. 14, 2008, 122 Stat. 4500, provided that:

"(a) Waiver of Certain Copayments.—Subject to subsection (b) and under regulations prescribed by the Secretary of Defense, the Secretary shall—

(1) waive all copayments under sections 1079(b) and 1086(b) of title 10, United States Code, for preventive services for all 0beneficiaries who would otherwise pay copayments; and

(2) ensure that a beneficiary pays nothing for preventive services during a year even if the beneficiary has not paid the amount necessary to cover the beneficiary's deductible for the year.

"(b) Exclusion for Medicare-Eligible Beneficiaries.—Subsection (a) shall not apply to a medicare-eligible beneficiary.

"(c) Refund of Copayments.—

(1) Authority.—Under regulations prescribed by the Secretary of Defense, the Secretary may pay a refund to a medicare-eligible beneficiary excluded by subsection (b), subject to the availability of appropriations specifically for such refunds, consisting of an amount up to the difference between—

(A) the amount the beneficiary pays for copayments for preventive services during fiscal year 2009; and

(B) the amount the beneficiary would have paid during such fiscal year if the copayments for preventive services had been waived pursuant to subsection (a) during that year.

(2) Copayments covered.—The refunds under paragraph (1) are available only for copayments paid by medicare-eligible beneficiaries during fiscal year 2009.

"(d) Definitions.—In this section:

(1) Preventive services.—The term 'preventive services' includes, taking into consideration the age and gender of the beneficiary:

(A) Colorectal screening.
(B) Breast screening.
(C) Cervical screening.
(D) Prostate screening.
(E) Annual physical exam.
(F) Vaccinations.
(G) Other services as determined by the Secretary of Defense.

(2) Medicare-eligible.—The term 'medicare-eligible' has the meaning provided by section 1111((b) [sic] of title 10, United States Code."

Plan For Providing Health Coverage Information To Members, Former Members, And Dependents Eligible For Certain Health Benefits

Pub. L. 108-136, div. A, title VII, Sec. 724, Nov. 24, 2003, 117 Stat. 1534, provided that:

"(a) Health Information Plan Required.—The Secretary of Defense shall develop a plan to—

"(1) ensure that each household that includes one or more eligible persons is provided information concerning—

"(A) the extent of health coverage provided by sections 1079 or 1086 of title 10, United States Code, for each such person;

"(B) the costs, including the limits on such costs, that each such person is required to pay for such health coverage;

"(C) sources of information for locating TRICARE-authorized providers in the household's locality; and

"(D) methods to obtain assistance in resolving difficulties encountered with billing, payments, eligibility, locating TRICARE-authorized providers, collection actions, and such other issues as the Secretary considers appropriate;

"(2) provide mechanisms to ensure that each eligible person has access to information identifying TRICARE-authorized providers in the person's locality who have agreed to accept new patients under section 1079 or 1086 of title 10, United States Code, and to ensure that such information is periodically updated;

"(3) provide mechanisms to ensure that each eligible person who requests assistance in locating a TRICARE-authorized provider is provided such assistance;

"(4) provide information and recruitment materials and programs aimed at attracting participation of health care providers as necessary to meet health care access requirements for all eligible persons; and

"(5) provide mechanisms to allow for the periodic identification by the Department of Defense of the number and locality of eligible persons who may intend to rely on TRICARE-authorized providers for health care services.

"(b) Implementation of Plan.—The Secretary of Defense shall implement the plan required by subsection (a) with respect to any contract entered into by the Department of Defense after May 31, 2003, for managed health care.

"(c) Definitions.—In this section:

"(1) The term 'eligible person' means a person eligible for health benefits under section 1079 or 1086 of title 10, United States Code.

"(2) The term 'TRICARE-authorized provider' means a facility, doctor, or other provider of health care services—

"(A) that meets the licensing and credentialing certification requirements in the State where the services are rendered;

"(B) that meets requirements under regulations relating to TRICARE for the type of health care services rendered; and

"(C) that has accepted reimbursement by the Secretary of Defense as payment for services rendered during the 12-month period preceding the date of the most recently updated provider information provided to households under the plan required by subsection (a).

"(d) Submission of Plan.—Not later than March 31, 2004, the Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives the plan required by subsection (a), together with a schedule for implementation of the plan."

TMA Version - March 2009

TMA Version - March 2009

Report On Actions To Establish Special Reimbursement Rates
Pub. L. 106-398, Sec. 1 [[div. A], title VII, Sec. 757(b)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A-199, directed the Secretary of Defense, not later than Mar. 31, 2001, to submit to the Committees on Armed Services of the Senate and the House of Representatives and the General Accounting Office a report on actions taken to carry out sections 1079(h)(5) and 1097b of this title.

Programs Relating To Sale Of Pharmaceuticals
Pub. L. 102-484, div. A, title VII, Sec. 702, Oct. 23, 1992, 106 Stat. 2431, as amended by Pub. L. 103-160, div. A, title VII, Sec. 721, Nov. 30, 1993, 107 Stat. 1695; Pub. L. 103-337, div. A, title VII, Sec. 706, Oct. 5, 1994, 108 Stat. 2800; Pub. L. 106-398, Sec. 1 [[div. A], title VII, Sec. 711(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A-176, directed the Secretary of Defense to conduct a demonstration project that would permit eligible persons to obtain prescription pharmaceuticals by mail, directed the Secretary to include in each managed health care program awarded or renewed after Jan. 1, 1993, a program to supply prescription pharmaceuticals through a managed care network of retail pharmacies, directed the Secretary to submit to Congress a report regarding the demonstration project not later than two years after its establishment and an additional report regarding the programs not later than Jan. 1, 1994, and provided for termination of section 702 of Pub. L. 102-484 no later than one year after Oct. 30, 2000.

Correction Of Omission In Delay Of Increase Of CHAMPUS Deductibles Related To Operation Desert Storm
Pub. L. 102-484, div. A, title VII, Sec. 721, Oct. 23, 1992, 106 Stat. 2438, provided that during the period beginning on Apr. 1, 1991, and ending on Sept. 30, 1991, the annual deductibles specified in this section or section 1086 of this title applicable to CHAMPUS beneficiaries who had served on active duty in the Persian Gulf theater of operations in connection with Operation Desert Storm would not exceed the annual deductibles in effect on Nov. 4, 1990, and provided for the credit or reimbursement of excess amounts paid.

Temporary CHAMPUS Provisions For Dependents Of Operation Desert Shield/Desert Storm Active Duty Personnel
Pub. L. 102-172, title VIII, Sec. 8085, Nov. 26, 1991, 105 Stat. 1192, provided that any CHAMPUS health care provider could voluntarily waive the patient copayment for medical services provided from Aug. 2, 1990, until the termination of Operation Desert Shield/Desert Storm for dependents of active duty personnel, provided that the Government's share of medical services was not increased during such time period. Similar provisions were contained in Pub. L. 102-28, Sec. 105, Apr. 10, 1991, 105 Stat. 165. Pub. L. 102-25, title III, Sec. 312, Apr. 6, 1991, 105 Stat. 85, provided that the annual deductibles specified in subsec. (b) of this section, as in effect on Nov. 4, 1990, would apply until Oct. 1, 1991, in the case of health care provided under that section to the dependents of a member of the uniformed services who had served on active duty in the Persian Gulf theater of operations in connection with Operation Desert Storm, and that patient copayment requirements could be waived upon the provider's certification to the Secretary of Defense that the amount charged the Federal Government for such health care had not been increased above the amount that the provider would have charged the Federal Government for such health care had the payment not been waived.

Transitional Health Care For Members, Or Dependents Of Members, Upon Release Of Member From Active Duty In Connection With Operation Desert Storm

For provision authorizing transitional health care, including health benefits contracted for under subsec. (a) of this section, for members, or dependents of members, upon release of member from active duty in connection with Operation Desert Storm, see section 313 of Pub. L. 102-25, set out as a note under section 1076 of this title.

TMA Version - March 2009

§ 1086. Contracts for health benefits for certain members, former members, and their dependents

TMA Version - March 2009

(a) To assure that health benefits are available for the persons covered by subsection (c), the Secretary of Defense, after consulting with the other administering Secretaries, shall contract under the authority of this section for health benefits for those persons under the same insurance, medical service, or health plans he contracts for under section 1079(a) of this title. However, eye examinations may not be provided under such plans for persons covered by subsection (c).

(b) For persons covered by this section the plans contracted for under section 1079(a) of this title shall contain the following provisions for payment by the patient:

(1) Except as provided in clause (2), the first $150 each fiscal year of the charges for all types of care authorized by this section and received while in an outpatient status and 25 percent of all subsequent charges for such care during a fiscal year.

(2) A family group of two or more persons covered by this section shall not be required to pay collectively more than the first $300 each fiscal year of the charges for all types of care authorized by this section and received while in an outpatient status and 25 percent of the additional charges for such care during a fiscal year.

(3) 25 percent of the charges for inpatient care, except that in no case may the charges for inpatient care for a patient exceed $535 per day during the period beginning on April 1, 2006, and ending on September 30, 2010. The Secretary of Defense may exempt a patient from paying such charges if the hospital to which the patient is admitted does not impose a legal obligation on any of its patients to pay for inpatient care.

(4) A member or former member of a uniformed service covered by this section by reason of section 1074(b) of this title, or an individual or family group of two or more persons covered by this section, may not be required to pay a total of more than $3,000 for health care received during any fiscal year under a plan contracted for under section 1079(a) of this title.

(c) Except as provided in subsection (d), the following persons are eligible for health benefits under this section:

(1) Those covered by sections 1074(b) and 1076(b) of this title, except those covered by section 1072(2)(E) of this title.

(2) A dependent (other than a dependent covered by section 1072(2)(E) of this title) of a member of a uniformed service—

(A) who died while on active duty for a period of more than 30 days; or

TMA Version - March 2009

(B) who died from an injury, illness, or disease incurred or aggravated—

(i) while on active duty under a call or order to active duty of 30 days or less, on active duty for training, or on inactive duty training; or

(ii) while traveling to or from the place at which the member is to perform, or has performed, such active duty, active duty for training, or inactive duty training.

(3) A dependent covered by clause (F), (G), or (H) of section 1072(2) of this title who is not eligible under paragraph (1).

(d)(1) A person who is entitled to hospital insurance benefits under part A of title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.) is not eligible for health benefits under this section.

(2) The prohibition contained in paragraph (1) shall not apply to a person referred to in subsection (c) who—

(A) is enrolled in the supplementary medical insurance program under part B of such title (42 U.S.C. 1395j et seq.); and

(B) in the case of a person under 65 years of age, is entitled to hospital insurance benefits under part A of title XVIII of the Social Security Act pursuant to subparagraph (A) or (C) of section 226(b)(2) of such Act (42 U.S.C. 426(b)(2)) or section 226A(a) of such Act (42 U.S.C. 426-1(a)).

(3)(A) Subject to subparagraph (B), if a person described in paragraph (2) receives medical or dental care for which payment may be made under medicare and a plan contracted for under subsection (a), the amount payable for that care under the plan shall be the amount of the actual out-of-pocket costs incurred by the person for that care over the sum of—

(i) the amount paid for that care under medicare; and

(ii) the total of all amounts paid or payable by third party payers other than medicare.

(B) The amount payable for care under a plan pursuant to subparagraph (A) may not exceed the total amount that would be paid under the plan if payment for that care were made solely under the plan.

(C) In this paragraph:

(i) The term “medicare” means title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.).

(ii) The term “third party payer” has the meaning given such term in section 1095(h)(1) of this title.

(4)(A) If a person referred to in subsection (c) and described by paragraph (2)(B) is subject to a retroactive determination by the Social Security Administration of entitlement to hospital insurance benefits described in paragraph (1), the person shall, during the period described in subparagraph (B), be deemed for purposes of health benefits under this section—

(i) not to have been covered by paragraph (1); and

(ii) not to have been subject to the requirements of section 1079(j)(1) of this title, whether through the operation of such section or subsection (g) of this section.

(B) The period described in this subparagraph with respect to a person covered by subparagraph (A) is the period that—

(i) begins on the date that eligibility of the person for hospital insurance benefits referred to in paragraph (1) is effective under the retroactive determination of eligibility with respect to the person as described in subparagraph (A); and

(ii) ends on the date of the issuance of such retroactive determination of eligibility by the Social Security Administration.

(5) The administering Secretaries shall develop a mechanism by which persons described in subparagraph (B) of paragraph (2) who do not satisfy the condition specified in subparagraph (A) of such paragraph are promptly notified of their ineligibility for health benefits under this section. In developing the notification mechanism, the administering Secretaries shall consult with the Administrator of the Centers for Medicare & Medicaid Services.

(e) A person covered by this section may elect to receive inpatient medical care either in (1) Government facilities, under the conditions prescribed in sections 1074 and 1076-1078 of this title, or (2) the facilities provided under a plan contracted for under this section. However, under joint regulations issued by the administering Secretaries, the right to make this election may be limited for those persons residing in an area where adequate facilities of the uniformed service are available. In addition, subsections (b) and (c) of section 1080 of this title shall apply in making the determination whether to issue a nonavailability of health care statement for a person covered by this section.

(f) The provisions of section 1079(h) of this title shall apply to payments for services by an individual health-care professional (or other noninstitutional health-care provider) under a plan contracted for under subsection (a).

(g) Section 1079(j) of this title shall apply to a plan contracted for under this section, except that no person eligible for health benefits under this section may be denied benefits under this section with respect to care or treatment for any service-connected disability which is compensable under chapter 11 of title 38 solely on the basis that such person is entitled to care or treatment for such disability in facilities of the Department of Veterans Affairs.

(h)(1) Subject to paragraph (2), the Secretary of Defense may, upon request, make payments under this section for a charge for services for which a claim is submitted under a plan contracted for under subsection (a) to a hospital that does not impose a legal obligation on any of its patients to pay for such services.

(2) A payment under paragraph (1) may not exceed the average amount paid for comparable services in the geographic area in which the hospital is located or, if no comparable services are available in that area, in an area similar to the area in which the hospital is located.

TMA Version - March 2009

(3) The Secretary of Defense shall periodically review the billing practices of each hospital the Secretary approves for payment under this subsection to ensure that the hospital's practices of not billing patients for payment are not resulting in increased costs to the Government.

(4) The Secretary of Defense may require each hospital the Secretary approves for payment under this subsection to provide evidence that it has sources of revenue to cover unbilled costs.

TMA Version - March 2009

NOTES

Source

(Added Pub. L. 89-614, Sec. 2(7), Sept. 30, 1966, 80 Stat. 865; amended Pub. L. 95-485, title VIII, Sec. 806(a)(2), Oct. 20, 1978, 92 Stat. 1622; Pub. L. 96-173, Sec. 1, Dec. 29, 1979, 93 Stat. 1287; Pub. L. 96-513, title V, Secs. 501(14), 511(36), (39), Dec. 12, 1980, 94 Stat. 2908, 2923; Pub. L. 97-86, title IX, Sec. 906(a)(2), Dec. 1, 1981, 95 Stat. 1117; Pub. L. 97-252, title X, Sec. 1004(c), Sept. 8, 1982, 96 Stat. 737; Pub. L. 98-94, title IX, Sec. 931(b), Sept. 24, 1983, 97 Stat. 649; Pub. L. 98-525, title VI, Sec. 632(a)(2), Oct. 19, 1984, 98 Stat. 2543; Pub. L. 98-557, Sec. 19(13), Oct. 30, 1984, 98 Stat. 2870; Pub. L. 99-145, title VI, Sec. 652(b), Nov. 8, 1985, 99 Stat. 657; Pub. L. 99-661, div. A, title VI, Sec. 604(f)(1)(C), Nov. 14, 1986, 100 Stat. 3877; Pub. L. 100-180, div. A, title VII, Sec. 721(b), Dec. 4, 1987, 101 Stat. 1115; Pub. L. 100-456, div. A, title VI, Sec. 646(b), Sept. 29, 1988, 102 Stat. 1989; Pub. L. 101-189, div. A, title VII, Sec. 731(c)(2), title XVI, Sec. 1621(a)(3), Nov. 29, 1989, 103 Stat. 1482, 1603; Pub. L. 101-510, div. A, title VII, Sec. 712(b), Nov. 5, 1990, 104 Stat. 1583; Pub. L. 102-190, div. A, title VII, Sec. 704(a), (b)(1), Dec. 5, 1991, 105 Stat. 1401; Pub. L. 102-484, div. A, title VII, Secs. 703(a), 705(a), Oct. 23, 1992, 106 Stat. 2432; Pub. L. 103-35, title II, Sec. 203(b)(2), May 31, 1993, 107 Stat. 102; Pub. L. 103-160, div. A, title VII, Sec. 716(b)(2), Nov. 30, 1993, 107 Stat. 1693; Pub. L. 103-337, div. A, title VII, Sec. 711, Oct. 5, 1994, 108 Stat. 2801; Pub. L. 104-106, div. A, title VII, Sec. 732, Feb. 10, 1996, 110 Stat. 381; Pub. L. 104-201, div. A, title VII, Sec. 734(a)(2), (b)(2), Sept. 23, 1996, 110 Stat. 2598; Pub. L. 106-398, Sec. 1 [[div. A], title VII, Secs. 712(a)(1), 759], Oct. 30, 2000, 114 Stat. 1654, 1654A-176, 1654A-200; Pub. L. 108-173, title IX, Sec. 900(e)(4)(A), Dec. 8, 2003, 117 Stat. 2373; Pub. L. 109-364, div. A, title VII, Sec. 704(b), Oct. 17, 2006, 120 Stat. 2280; Pub. L. 110-181, div. A, title VII, Sec. 701(b), Jan. 28, 2008, 122 Stat. 187; Pub. L. 110-417, [div. A], title VII, Sec. 701(b), Oct. 14, 2008, 122 Stat. 4498; Pub. L. 111-84, div. A, title VII, Secs. 706, 709, Oct. 28, 2009, 123 Stat. 2375, 2378.)

References In Text

The Social Security Act, referred to in subsec. (d), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title XVIII of the Act is classified generally to subchapter XVIII (Sec. 1395 et seq.) of chapter 7 of Title 42, The Public Health and Welfare. Parts A and B of title XVIII of the Act are classified generally to parts A (Sec. 1395c et seq.) and B (Sec. 1395j et seq.), respectively, of subchapter XVIII of chapter 7 of Title 42. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

Prior Provisions

A prior section 1086, act Aug. 10, 1956, ch. 1041, 70A Stat. 88, authorized the mailing of official post cards, ballots, voting instructions, and envelopes, free of postage, prior to repeal by Pub. L. 85-861, Sec. 36(B)(5), Sept. 2, 1958, 72 Stat. 1570, as superseded by the Federal Voting Assistance Act of 1955 which is classified to subchapter I-D (Sec. 1973cc et seq.) of chapter 20 of Title 42, The Public Health and Welfare.

Amendments

2009—Subsec. (b)(3). Pub. L. 111-84, Sec. 709, substituted "September 30, 2010" for "September 30, 2009".
Subsec. (d)(4), (5). Pub. L. 111-84, Sec. 706, added par. (4) and redesignated former par. (4) as (5).

2008—Subsec. (b)(3). Pub. L. 110-417 substituted "September 30, 2009" for "September 30, 2008".
Pub. L. 110-181 substituted "September 30, 2008" for "September 30, 2007."

2006—Subsec. (b)(3). Pub. L. 109-364 inserted ", except that in no case may the charges for inpatient care for a patient exceed $535 per day during the period beginning on April 1, 2006, and ending on September 30, 2007." after "charges for inpatient care".

2003—Subsec. (d)(4). Pub. L. 108-173 substituted "Administrator of the Centers for Medicare & Medicaid Services" for "administrator of the Health Care Financing Administration" in last sentence.

2000—Subsec. (b)(4). Pub. L. 106-398, Sec. 1 [[div. A], title VII, Sec. 759], substituted "$3,000" for "$7,500".
Subsec. (d)(2). Pub. L. 106-398, Sec. 1 [[div. A], title VII, Sec. 712(a)(1)(A)], added par. (2) and struck out former par. (2) which read as follows: "The prohibition contained in paragraph (1) shall not apply in the case of a person referred to in subsection (c) who—

"(A) is entitled to hospital insurance benefits under part A of title XVIII of the Social Security Act pursuant to subparagraph (A) or (C) of section 226(b)(2) of such Act (42 U.S.C. 426(b)(2)) or section 226A(a) of such Act (42 U.S.C. 426-1(a));
"(B) is under 65 years of age; and
"(C) is enrolled in the supplementary medical insurance program under part B of such title (42 U.S.C. 1395j et seq.)."

Subsec. (d)(4). Pub. L. 106-398, Sec. 1 [[div. A], title VII, Sec. 712(a)(1)(B)], substituted "subparagraph (B) of paragraph (2) who do not satisfy the condition specified in subparagraph (A) of such paragraph" for "paragraph (1) who satisfy only the criteria specified in subparagraphs (A) and (B) of paragraph (2), but not subparagraph (C) of such paragraph,".

1996—Subsec. (d)(4). Pub. L. 104-106 added par. (4).
Subsec. (e). Pub. L. 104-201 substituted "inpatient medical care" for "benefits" in first sentence and "subsections (b) and (c) of section 1080" for "section 1080(b)" in last sentence.

1994—Subsec. (d)(3). Pub. L. 103-337 added par. (3) and struck out former par. (3) which read as follows: "If a person described in paragraph (2) receives medical or dental care for which payment may be made under both title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) and a plan contracted for under subsection (a), the amount payable for that care under the plan may not exceed the difference between—

"(A) the sum of any deductibles, coinsurance, and balance billing charges that would be imposed on the person if payment for that care were made solely under that title; and
"(B) the sum of any deductibles, coinsurance, and balance billing charges that would be imposed on the person if payment for that care were made solely under the plan."

1993—Subsec. (d). Pub. L. 103-35 made technical amendment to directory language of Pub. L. 102-190, Sec. 704(a). See 1991 Amendment note below.
Subsec. (e). Pub. L. 103-160 inserted at end "In addition, section 1080(b) of this title shall apply in making the determination whether to issue a nonavailability of health care statement for a person covered by this section."

TMA Version - March 2009

TMA Version - March 2009

1992—Subsec. (b)(4). Pub. L. 102-484, Sec. 703(a), substituted "$7,500" for "$10,000".
Subsec. (d)(2)(A). Pub. L. 102-484, Sec. 705(a), inserted before semicolon "or section 226A(a) of such Act (42 U.S.C. 426-1(a))".

1991—Subsec. (c). Pub. L. 102-190, Sec. 704(b)(1)(A), substituted "Except as provided in subsection (d), the following" for "The following" in introductory provisions and struck out at end "However, a person who is entitled to hospital insurance benefits under part A of title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.) is not eligible for health benefits under this section."
Subsec. (d). Pub. L. 102-190, Sec. 704(a), as amended by Pub. L. 103-35, added subsec. (d) and struck out former subsec. (d) which read as follows: "The provisions of section 1079(j) of this title shall apply to a plan covered by this section."
Subsec. (g). Pub. L. 102-190, Sec. 704(b)(1)(B), substituted "Section 1079(j) of this title shall apply to a plan contracted for under this section, except that" for "Notwithstanding subsection (d) or any other provision of this chapter,".

1990—Subsec. (b)(1), (2). Pub. L. 101-510 substituted "$150" for "$50" in par. (1) and "$300" for "$100" in par. (2).

1989—Subsec. (c)(3). Pub. L. 101-189, Sec. 731(c)(2), amended par. (3) generally. Prior to amendment, par. (3) read as follows: "A dependent covered by section 1072(2)(F) of this title."
Subsec. (g). Pub. L. 101-189, Sec. 1621(a)(3), substituted "facilities of the Department of Veterans Affairs" for "Veterans' Administration facilities".

1988—Subsec. (b)(3). Pub. L. 100-456, Sec. 646(b)(1), inserted provision authorizing Secretary of Defense to exempt a patient from paying such charges if the hospital to which the patient is admitted does not impose a legal obligation on any of its patients to pay for inpatient care.
Subsec. (h). Pub. L. 100-456, Sec. 646(b)(2), added subsec. (h).

1987—Subsec. (b)(4). Pub. L. 100-180 added par. (4).

1986—Subsec. (c)(2)(B). Pub. L. 99-661 inserted reference to
disease.

1985—Subsec. (c)(2). Pub. L. 99-145 amended par. (2) generally. Prior to amendment, par. (2) read as follows: "A dependent of a member of a uniformed service who died while on active duty for a period of more than thirty days, except a dependent covered by section 1072(2)(E) of this title."

1984—Subsec. (a). Pub. L. 98-557, Sec. 19(13)(A), substituted reference to other administering Secretaries for reference to Secretary of Health and Human Services.
Pub. L. 98-525 inserted "However, eye examinations may not be provided under such plans for persons covered by subsection (c)."
Subsec. (e). Pub. L. 98-557, Sec. 19(13)(B), substituted reference to the administering Secretaries for reference to the Secretary of Defense and the Secretary of Health and Human Services.

1983—Subsec. (d). Pub. L. 98-94 substituted "The provisions of section 1079(j) of this title shall apply to a plan covered by this section" for "No benefits shall be payable under any plan covered by this section in the case of a person enrolled in any other insurance, medical service, or health plan provided by law or through employment unless that person certifies that the particular benefit he is claiming is not payable under the other plan".

1982—Subsec. (c)(3). Pub. L. 97-252 added par. (3).

1981—Subsec. (f). Pub. L. 97-86 substituted "services by an individual health-care professional (or other noninstitutional health-care provider)" for "physician services".

1980—Subsec. (a). Pub. L. 96-513, Sec. 511(36), substituted "Secretary of Health and Human Services" for "Secretary of Health, Education, and Welfare".
Subsec. (b). Pub. L. 96-513, Sec. 511(39)(A), substituted "percent" for "per centum" wherever appearing.
Subsec. (c). Pub. L. 96-513, Secs. 501(14), 511(39)(B), substituted "section 1072(2)(E)" for "section 1072(2)(F)" in pars. (1) and (2) and, in provisions following par. (2), substituted "part A of title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.)" for "title I of the Social Security Amendments of 1965 (79 Stat. 286)".

1979—Subsec. (g). Pub. L. 96-173 added subsec. (g).

1978—Subsec. (f). Pub. L. 95-485 added subsec. (f).

Effective Date Of 2000 Amendment
Pub. L. 106-398, Sec. 1 [[div. A], title VII, Sec. 712(a)(3)], Oct. 30, 2000, 114 Stat. 1654, 1654A-177, provided that: "The amendments made by paragraphs (1) and (2) [amending this section and section 1395ggg of Title 42, The Public Health and Welfare] shall take effect on October 1, 2001."

Effective Date Of 1992 Amendment
Section 703(b) of Pub. L. 102-484 provided that: "The amendment made by subsection (a) [amending this section] shall apply with respect to fiscal years beginning after September 30, 1992."

Effective Date Of 1991 Amendment
Section 704(c) of Pub. L. 102-190, which provided that subsection (d) of this section was to apply with respect to health care benefits or services received by a person described in such subsection on or after Dec. 5, 1991, was repealed by Pub. L. 102-484, div. A, title VII, Sec. 705(c)(1), Oct. 23, 1992, 106 Stat. 2433.

Effective Date Of 1990 Amendment
Amendment by Pub. L. 101-510 applicable with respect to health care provided under this section and section 1079 of this title on or after Apr. 1, 1991, see section 712(c) of Pub. L. 101-510, set out as a note under section 1079 of this title.

Effective Date Of 1989 Amendment
Amendment by section 731(c)(2) of Pub. L. 101-189 applicable to a person referred to in 10 U.S.C. 1072(2)(H) whose decree of divorce, dissolution, or annulment becomes final on or after Nov. 29, 1989, and to a person so referred to whose decree became final during the period from Sept. 29, 1988 to Nov. 28, 1989, as if the amendment had become effective on Sept. 29, 1988, see section 731(d) of Pub. L. 101-189, set out as a note under section 1072 of this title.

Effective Date Of 1988 Amendment
Amendment by Pub. L. 100-456 applicable with respect to medical care received after September 30, 1988, see section 646(c) of Pub. L. 100-456, set out as a note under section 1079 of this title.

TMA Version - March 2009

TMA Version - March 2009

Effective Date Of 1987 Amendment
Amendment by Pub. L. 100-180 applicable with respect to fiscal years beginning after September 30, 1987, see section 721(c) of Pub. L. 100-180, set out as a note under section 1079 of this title.

Effective Date Of 1986 Amendment
Amendment by Pub. L. 99-661 applicable with respect to persons who, after Nov. 14, 1986, incur or aggravate an injury, illness, or disease or die, see section 604(g) of Pub. L. 99-661, set out as a note under section 1074a of this title.

Effective Date Of 1985 Amendment
Amendment by Pub. L. 99-145 applicable only with respect to dependents of members of the uniformed services whose deaths occur after Sept. 30, 1985, see section 652(c) of Pub. L. 99-145, set out as a note under section 1076 of this title.

Effective Date Of 1984 Amendment
Amendment by Pub. L. 98-525 applicable only to health care furnished after Sept. 30, 1984, see section 632(a)(3) of Pub. L. 98-525, set out as a note under section 1079 of this title.

Effective Date Of 1983 Amendment
Amendment by Pub. L. 98-94 effective Oct. 1, 1983, see section 931(c) of Pub. L. 98-94, set out as a note under section 1079 of this title.

Effective Date Of 1982 Amendment; Transition Provisions
Amendment by Pub. L. 97-252 effective Feb. 1, 1983, and applicable in the case of any former spouse of a member or former member of the uniformed services whether final decree of divorce, dissolution, or annulment of marriage of former spouse and such member or former member is dated before, on, or after Feb. 1, 1983, see section 1006 of Pub. L. 97-252, set out as an Effective Date; Transition Provisions note under section 1408 of this title.

Effective Date Of 1981 Amendment
Amendment by Pub. L. 97-86 to apply with respect to claims submitted for payment for services provided after the end of the 30-day period beginning on Dec. 1, 1981, see section 906(b) of Pub. L. 97-86, set out as a note under section 1079 of this title.

Effective Date Of 1980 Amendment
Amendment by section 501(14) of Pub. L. 96-513 effective Sept. 15, 1981, and amendment by section 511(36), (39) of Pub. L. 96-513 effective Dec. 12, 1980, see section 701 of Pub. L. 96-513, set out as a note under section 101 of this title.

Effective Date Of 1979 Amendment
Section 2 of Pub. L. 96-173 provided that: "The amendment made by the first section of this Act [amending this section] shall take effect on October 1, 1979."

Effective Date Of 1978 Amendment
Amendment by Pub. L. 95-485 applicable with respect to claims submitted for payment for services provided on or after the first day of the first calendar year beginning after Oct. 20, 1978, see section 806(b) of Pub. L. 95-485, set out as a note under section 1079 of this title.

Effective Date
For effective date of section, see section 3 of Pub. L. 89-614, set out as a note under section 1071 of this title.

Temporary Authority For Waiver Of Collection Of Payments Due For CHAMPUS Benefits Received By Certain Persons Unaware Of Loss Of CHAMPUS Eligibility
Pub. L. 108-375, div. A, title VII, Sec. 716, Oct. 28, 2004, 118 Stat. 1986, authorized the Secretary of Defense to waive the collection of payments otherwise due for health benefits from certain persons described in subsec. (d) of this section who were unaware of the loss of eligibility to receive health benefits under such subsection and authorized a continuation of benefits for such persons during the period beginning on July 1, 1999, and ending on Dec. 31, 2004. Similar provisions were contained in the following prior authorization acts:
Pub. L. 105-261, div. A, title VII, Sec. 704, Oct. 17, 1998, 112 Stat. 2057.
Pub. L. 104-106, div. A, title VII, Sec. 743, Feb. 10, 1996, 110 Stat. 385.

Minimum Amount Payable For Services Provided Under This Section
Pub. L. 103-335, title VIII, Sec. 8052, Sept. 30, 1994, 108 Stat. 2629, provided that: "Notwithstanding any other provision of law, of the funds appropriated for the Defense Health Program during this fiscal year and hereafter, the amount payable for services provided under this section shall not be less than the amount calculated under the coordination of benefits reimbursement formula utilized when CHAMPUS is a secondary payor to medical insurance programs other than Medicare, and such appropriations as necessary shall be available (notwithstanding the last sentence of section 1086(c) of title 10, United States Code) to continue Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) benefits, until age 65, under such section for a former member of a uniformed service who is entitled to retired or retainer pay or equivalent pay, or a dependent of such a member, or any other beneficiary described by section 1086(c) of title 10, United States Code, who becomes eligible for hospital insurance benefits under part A of title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) [42 U.S.C. 1395c et seq.] solely on the grounds of physical disability, or end stage renal disease: Provided, That expenses under this section shall only be covered to the extent that such expenses are not covered under parts A and B of title XVIII of the Social Security Act [42 U.S.C. 1395c et seq., 1395j et seq.] and are otherwise covered under CHAMPUS: Provided further, That no reimbursement shall be made for services provided prior to October 1, 1991."

Authorization To Apply Section 1079 Payment Rules For Spouse And Children Of Member Who Dies While On Active Duty
Pub. L. 103-160, div. A, title VII, Sec. 704, Nov. 30, 1993, 107 Stat. 1687, provided that in the case of an eligible dependent of a member of a uniformed service who died while on active duty for a period of more than 30 days, the administering Secretary could apply the payment provisions set forth in section 1079(b) of this title (in lieu of the payment provisions set forth in section 1086(b) of this title), with respect to health benefits received by the dependent under such section 1086 in connection with an illness or medical condition for which the dependent was receiving treatment under chapter 55 of this title at time of death of the member, prior to repeal by Pub. L. 103-337, div. A, title VII, Sec. 707(d), Oct. 5, 1994, 108 Stat. 2801. [Section 707(d) of Pub. L. 103-337 provided in part that: "The repeal of such section [section 704 of Pub. L. 103-160, formerly set out above] shall not terminate the special payment rules provided in such section with respect to any person eligible for such payment rules on the date of the enactment of this Act [Oct. 5, 1994]."]

TMA Version - March 2009

Coverage Of Care Provided Since September 30, 1991

Section 705(b) of Pub. L. 102-484 provided that: "Subsection (d) of section 1086 of title 10, United States Code, as added by section 704(a) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102-190; 105 Stat. 1401) and amended by subsection (a) of this section, shall apply with respect to health care benefits or services received after September 30, 1991, by a person described in subsection (d)(2) of such section 1086 if such benefits or services would have been covered under a plan contracted for under such section 1086."

TMA Version - March 2009

§ 1089. Defense of certain suits arising out of medical malpractice

TMA Version - March 2009

(a) The remedy against the United States provided by sections 1346(b) and 2672 of title 28 for damages for personal injury, including death, caused by the negligent or wrongful act or omission of any physician, dentist, nurse, pharmacist, or paramedical or other supporting personnel (including medical and dental technicians, nursing assistants, and therapists) of the armed forces, the National Guard while engaged in training or duty under section 316, 502, 503, 504, or 505 of title 32, the Department of Defense, the Armed Forces Retirement Home, or the Central Intelligence Agency in the performance of medical, dental, or related health care functions (including clinical studies and investigations) while acting within the scope of his duties or employment therein or therefor shall hereafter be exclusive of any other civil action or proceeding by reason of the same subject matter against such physician, dentist, nurse, pharmacist, or paramedical or other supporting personnel (or the estate of such person) whose act or omission gave rise to such action or proceeding. This subsection shall also apply if the physician, dentist, nurse, pharmacist, or paramedical or other supporting personnel (or the estate of such person) involved is serving under a personal services contract entered into under section 1091 of this title.

(b) The Attorney General shall defend any civil action or proceeding brought in any court against any person referred to in subsection (a) of this section (or the estate of such person) for any such injury. Any such person against whom such civil action or proceeding is brought shall deliver within such time after date of service or knowledge of service as determined by the Attorney General, all process served upon such person or an attested true copy thereof to such person's immediate superior or to whomever was designated by the head of the agency concerned to receive such papers and such person shall promptly furnish copies of the pleading and process therein to the United States attorney for the district embracing the place wherein the action or proceeding is brought, to the Attorney General and to the head of the agency concerned.

(c) Upon a certification by the Attorney General that any person described in subsection (a) was acting in the scope of such person's duties or employment at the time of the incident out of which the suit arose, any such civil action or proceeding commenced in a State court shall be removed without bond at any time before trial by the Attorney General to the district court of the United States of the district and division embracing the place wherein it is pending and the proceeding deemed a tort action brought against the United States under the provisions of title 28 and all references thereto. Should a United States district court determine on a hearing on a motion to remand held before a trial on the merits that the case so removed is one in which a remedy by suit within the meaning of subsection (a) of this section is not available against the United States, the case shall be remanded to the State court.

(d) The Attorney General may compromise or settle any claim asserted in such civil action or proceeding in the manner provided in section 2677 of title 28, and with the same effect.

(e) For purposes of this section, the provisions of section 2680(h) of title 28 shall not apply to any cause of action arising out of a negligent or wrongful act or omission in the performance of medical, dental, or related health care functions (including clinical studies and investigations).

TMA Version - March 2009

(f)(1) The head of the agency concerned may, to the extent that the head of the agency concerned considers appropriate, hold harmless or provide liability insurance for any person described in subsection (a) for damages for personal injury, including death, caused by such person's negligent or wrongful act or omission in the performance of medical, dental, or related health care functions (including clinical studies and investigations) while acting within the scope of such person's duties if such person is assigned to a foreign country or detailed for service with other than a Federal department, agency, or instrumentality or if the circumstances are such as are likely to preclude the remedies of third persons against the United States described in section 1346(b) of title 28, for such damage or injury.

(2) With respect to the Secretary of Defense and the Armed Forces Retirement Home Board, the authority provided by paragraph (1) also includes the authority to provide for reasonable attorney's fees for persons described in subsection (a), as determined necessary pursuant to regulations prescribed by the head of the agency concerned.

(g) In this section, the term "head of the agency concerned" means—

(1) the Director of the Central Intelligence Agency, in the case of an employee of the Central Intelligence Agency;

(2) the Secretary of Homeland Security, in the case of a member or employee of the Coast Guard when it is not operating as a service in the Navy;

(3) the Armed Forces Retirement Home Board, in the case of an employee of the Armed Forces Retirement Home; and

(4) the Secretary of Defense, in all other cases.

NOTES

Source

(Added Pub. L. 94-464, Sec. 1(a), Oct. 8, 1976, 90 Stat. 1985; amended Pub. L. 97-124, Sec. 2, Dec. 29, 1981, 95 Stat. 1666; Pub. L. 98-94, title IX, Sec. 934(a)-(c), Sept. 24, 1983, 97 Stat. 651, 652; Pub. L. 100-180, div. A, title XII, Sec. 1231(18)(A), Dec. 4, 1987, 101 Stat. 1161; Pub. L. 101-510, div. A, title XV, Sec. 1533(a)(1), Nov. 5, 1990, 104 Stat. 1733; Pub. L. 105-85, div. A, title VII, Sec. 736(b), Nov. 18, 1997, 111 Stat. 1814; Pub. L. 107-296, title XVII, Sec. 1704(b)(1), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 110-181, div. A, title IX, Sec. 931(b)(3), Jan. 28, 2008.)

Amendments

2008—Subsec. (g)(1). Pub. L. 110-181 substituted "Director of the Central Intelligence Agency" for "Director of Central Intelligence".

2002—Subsec. (g)(2). Pub. L. 107-296 substituted "of Homeland Security" for "of Transportation".

1997—Subsec. (a). Pub. L. 105-85, Sec. 736(b)(1), inserted at end "This subsection shall also apply if the physician, dentist, nurse, pharmacist, or paramedical or other supporting personnel (or the

estate of such person) involved is serving under a personal services contract entered into under section 1091 of this title."
Subsec. (f). Pub. L. 105-85, Sec. 736(b)(2), designated existing provisions as par. (1) and added par. (2).

1990—Subsec. (a). Pub. L. 101-510, Sec. 1533(a)(1)(A), substituted "Armed Forces Retirement Home" for "United States Soldiers' and Airmen's Home".
Subsec. (g)(3). Pub. L. 101-510, Sec. 1533(a)(1)(B), added par. (3) and struck out former par. (3) which read as follows: "the Board of Commissioners of the United States Soldiers' and Airmen's home, in the case of an employee of the United States Soldiers' and Airmen's Home; and".

1987—Subsec. (g). Pub. L. 100-180 inserted "the term" after "In this section,".

1983—Subsec. (a). Pub. L. 98-94, Sec. 934(a), inserted "the United States Soldiers' and Airmen's Home,".
Subsec. (f). Pub. L. 98-94, Sec. 934(b), substituted "may, to the extent that the head of the agency concerned considers" for "or his designee may, to the extent that he or his designee deems".
Subsec. (g)(3), (4). Pub. L. 98-94, Sec. 934(c)(3), added par. (3) and redesignated former par. (3) as (4).

1981—Subsec. (a). Pub. L. 97-124 inserted "the National Guard while engaged in training or duty under section 316, 502, 503, 504, or 505 of title 32," after "armed forces,".

Effective Date Of 2002 Amendment
Amendment by Pub. L. 107-296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107-296, set out as a note under section 101 of this title.

Effective Date Of 1990 Amendment
Amendment by Pub. L. 101-510 effective one year after Nov. 5, 1990, see section 1541 of Pub. L. 101-510, formerly set out as an Effective Date note under section 401 of Title 24, Hospitals and Asylums.

Effective Date Of 1983 Amendment
Section 934(d) of Pub. L. 98-94 provided that: "The amendments made by this section [amending this section] shall apply only to claims accruing on or after the date of the enactment of this Act [Sept. 24, 1983]."

Effective Date Of 1981 Amendment
Section 4 of Pub. L. 97-124 provided that: "The amendments made by this Act [amending this section and section 2671 of Title 28, Judiciary and Judicial Procedure] and the repeal made by section 3 of this Act [repealing section 334 of Title 32, National Guard] shall apply only with respect to claims arising on or after the date of enactment of this Act [Dec. 29, 1981]."

Effective Date
Section 4 of Pub. L. 94-464 provided that: "This Act [enacting this section, section 334 of Title 32, National Guard, section 2458a of Title 42, The Public Health and Welfare, and provisions set out as notes under this section and section 334 of Title 32] shall become effective on the date of its enactment [Oct. 8, 1976] and shall apply only to those claims accruing on or after such date of enactment."

TMA Version - March 2009

TMA Version - March 2009

Congressional Findings

Section 2(a) of Pub. L. 94-464 provided that: "The Congress finds—

"(1) that the Army National Guard and the Air National Guard are critical components of the defense posture of the United States;

"(2) that a medical capability is essential to the performance of the mission of the National Guard when in Federal service;

"(3) that the current medical malpractice crisis poses a serious threat to the availability of sufficient medical personnel for the National Guard; and

"(4) that in order to insure that such medical personnel will continue to be available to the National Guard, it is necessary for the Federal Government to assume responsibility for the payment of malpractice claims made against such personnel arising out of actions or omissions on the part of such personnel while they are performing certain training exercises."

§ 1092. Studies and demonstration projects relating to delivery of health and medical care

TMA Version - March 2009

(a)(1) The Secretary of Defense, in consultation with the other administering Secretaries, shall conduct studies and demonstration projects on the health care delivery system of the uniformed services with a view to improving the quality, efficiency, convenience, and cost effectiveness of providing health care services (including dental care services) under this title to members and former members and their dependents. Such studies and demonstration projects may include the following:

(A) Alternative methods of payment for health and medical care services.

(B) Cost-sharing by eligible beneficiaries.

(C) Methods of encouraging efficient and economical delivery of health and medical care services.

(D) Innovative approaches to delivery and financing of health and medical care services.

(E) Alternative approaches to reimbursement for the administrative charges of health care plans.

(F) Prepayment for medical care services provided to maintain the health of a defined population.

(2) The Secretary of Defense shall include in the studies conducted under paragraph (1) alternative programs for the provision of dental care to the spouses and dependents of members of the uniformed services who are on active duty, including a program under which dental care would be provided the spouses and dependents of such members under insurance or dental plan contracts. A demonstration project may not be conducted under this section that provides for the furnishing of dental care under an insurance or dental plan contract.

(3) The Secretary of Defense may include in the studies and demonstration projects conducted under paragraph (1) studies and demonstration projects to provide awards and incentives to members of the armed forces and covered beneficiaries who obtain health promotion and disease prevention health care services under the TRICARE program in accordance with terms and schedules prescribed by the Secretary. Such awards and incentives may include cash awards and, in the case of members of the armed forces, personnel incentives.

(4)(A) The Secretary of Defense may, in consultation with the other administering Secretaries, include in the studies and demonstration projects conducted under paragraph (1) studies and demonstration projects to provide awards or incentives to individual health care professionals under the authority of such Secretaries, including members of the uniformed services, Federal civilian employees, and contractor personnel, to encourage and reward effective implementation of innovative health care programs designed to improve quality, cost-

TMA Version - March 2009

effectiveness, health promotion, medical readiness, and other priority objectives. Such awards and incentives may include cash awards and, in the case of members of the armed forces and Federal civilian employees, personnel incentives.

(B) Amounts available for the pay of members of the uniformed services shall be available for awards and incentives under this paragraph with respect to members of the uniformed services.

(5) The Secretary of Defense may include in the studies and demonstration projects conducted under paragraph (1) studies and demonstration projects to improve the medical and dental readiness of members of reserve components of the armed forces, including the provision of health care services to such members for which they are not otherwise entitled or eligible under this chapter.

(6) The Secretary of Defense may include in the studies and demonstration projects conducted under paragraph (1) studies and demonstration projects to improve the continuity of health care services for family members of mobilized members of the reserve components of the armed forces who are eligible for such services under this chapter, including payment of a stipend for continuation of employer-provided health coverage during extended periods of active duty.

(b) Subject to the availability of appropriations for that purpose, the Secretary of Defense may enter into contracts with public or private agencies, institutions, and organizations to conduct studies and demonstration projects under subsection (a).

(c) The Secretary of Defense may obtain the advice and recommendations of such advisory committees as the Secretary considers appropriate. Each such committee consulted by the Secretary under this subsection shall evaluate the proposed study or demonstration project as to the soundness of the objectives of such study or demonstration project, the likelihood of obtaining productive results based on such study or demonstration project, the resources which were required to conduct such study or demonstration project, and the relationship of such study or demonstration project to other ongoing or completed studies and demonstration projects.

NOTES

Source

(Added Pub. L. 98-94, title IX, Sec. 933(a)(1), Sept. 24, 1983, 97 Stat. 650; amended Pub. L. 98-557, Sec. 19(14), Oct. 30, 1984, 98 Stat. 2870; Pub. L. 105-261, div. A, title X, Sec. 1031(a), Oct. 17, 1998, 112 Stat. 2123; Pub. L. 110-417, [div. A], title VII, Sec. 715, Oct. 14, 2008, 122 Stat. 4505.)

Amendments

2008—Subsec. (a)(3) to (6). Pub. L. 110-417 added pars. (3) to (6).

1998—Subsec. (a)(3). Pub. L. 105-261 struck out par. (3) which read as follows: "The Secretary of Defense shall submit to Congress from time to time written reports on the results of the studies and demonstration projects conducted under this subsection and shall include in such reports such

recommendations for improving the health-care delivery systems of the uniformed services as the Secretary considers appropriate."

1984—Subsec. (a)(1). Pub. L. 98-557 substituted reference to other administering Secretaries for reference to Secretary of Health and Human Services.

Effective Date

Section 933(b) of Pub. L. 98-94 provided that: "Section 1092 of title 10, United States Code, as added by subsection (a), shall take effect on October 1, 1983."

Military Health Risk Management Demonstration Project

Pub. L. 110-417, [div. A], title VII, Sec. 712, Oct. 14, 2008, 122 Stat. 4501, provided that:

"(a) Demonstration Project Required.—The Secretary of Defense shall conduct a demonstration project designed to evaluate the efficacy of providing incentives to encourage healthy behaviors on the part of eligible military health system beneficiaries.

"(b) Elements of Demonstration Project.—

(1) Wellness assessment.—The Secretary shall develop a wellness assessment to be offered to beneficiaries enrolled in the demonstration project. The wellness assessment shall incorporate nationally recognized standards for health and healthy behaviors and shall be offered to determine a baseline and at appropriate intervals determined by the Secretary. The wellness assessment shall include the following:

(A) A self-reported health risk assessment.

(B) Physiological and biometric measures, including at least—

(i) blood pressure;

(ii) glucose level;

(iii) lipids;

(iv) nicotine use; and

(v) weight.

(2) Population enrolled.—Non-medicare eligible retired beneficiaries of the military health system and their dependents who are enrolled in TRICARE Prime and who reside in the demonstration project service area shall be offered the opportunity to enroll in the demonstration project.

(3) Geographic coverage of demonstration project.—The demonstration project shall be conducted in at least three geographic areas within the United States where TRICARE Prime is offered, as determined by the Secretary. The area covered by the project shall be referred to as the demonstration project service area.

(4) Programs.—The Secretary shall develop programs to assist enrollees to improve healthy behaviors, as identified by the wellness assessment.

(5) Inclusion of incentives required.—For the purpose of conducting the demonstration project, the Secretary may offer monetary and non-monetary incentives to enrollees to encourage participation in the demonstration project.

"(c) Evaluation of Demonstration Project.—The Secretary shall annually evaluate the demonstration project for the following:

(1) The extent to which the health risk assessment and the physiological and biometric measures of beneficiaries are improved from the baseline (as determined in the wellness assessment).

(2) In the case of baseline health risk assessments and physiological and biometric measures that reflect healthy behaviors, the extent to which the measures are maintained.

TMA Version - March 2009

TMA Version - March 2009

"(d) Implementation Plan.—The Secretary of Defense shall submit a plan to implement the health risk management demonstration project required by this section not later than 90 days after the date of the enactment of this Act [Oct. 14, 2008].

"(e) Duration of Project.—The health risk management demonstration project shall be implemented for a period of three years, beginning not later than March 1, 2009, and ending three years after that date.

"(f) Report.—

(1) In general.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives an annual report on the effectiveness of the health risk management demonstration project in improving the health risk measures of military health system beneficiaries enrolled in the demonstration project. The first report shall be submitted not later than one year after the date of the enactment of this Act [Oct. 14, 2008], and subsequent reports shall be submitted for each year of the demonstration project with the final report being submitted not later than 90 days after the termination of the demonstration project.

(2) Matters covered.—Each report shall address, at a minimum, the following:

(A) The number of beneficiaries who were enrolled in the project.

(B) The number of enrolled beneficiaries who participate in the project.

(C) The incentives to encourage healthy behaviors that were provided to the beneficiaries in each beneficiary category, and the extent to which the incentives encouraged healthy behaviors.

(D) An assessment of the effectiveness of the demonstration project.

(E) Recommendations for adjustments to the demonstration project.

(F) The estimated costs avoided as a result of decreased health risk conditions on the part of each of the beneficiary categories.

(G) Recommendations for extending the demonstration project or implementing a permanent wellness assessment program.

(H) Identification of legislative authorities required to implement a permanent program."

Availability Of Chiropractic Health Care Services

Pub. L. 109-163, div. A, title VII, Sec. 712, Jan. 6, 2006, 119 Stat. 3343, provided that:

"(a) Availability of Chiropractic Health Care Services.—The Secretary of the Air Force shall ensure that chiropractic health care services are available at all medical treatment facilities listed in table 5 of the report to Congress dated August 16, 2001, titled 'Chiropractic Health Care Implementation Plan'. If the Secretary determines that it is not necessary or feasible to provide chiropractic health care services at any such facility, the Secretary shall provide such services at an alternative site for each such facility.

"(b) Implementation and Report.—Not later than September 30, 2006, the Secretary of the Air Force shall—

"(1) implement subsection (a); and

"(2) submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the availability of chiropractic health care services as required under subsection (a), including information on alternative sites at which such services have been made available."

Pilot Program For Health Care Delivery

Pub. L. 108-375, div. A, title VII, Sec. 721, Oct. 28, 2004, 118 Stat. 1988, as amended by Pub. L. 110-181, div. A, title VII, Sec. 707, Jan. 28, 2008, 122 Stat. 189; Pub. L. 110-417, [div. A], title X, Sec. 1061(e), Oct. 14, 2008, 122 Stat. 4613, provided that:

"(a) Pilot Program.—The Secretary of Defense may conduct a pilot program at two or more military installations for purposes of testing initiatives that build cooperative health care arrangements and agreements between military installations and local and regional non-military health care systems.

"(b) Requirements of Pilot Program.—In conducting the pilot program, the Secretary of Defense shall—

(1) identify and analyze health care delivery options involving the private sector and health care services in military facilities located on the installation;

(2) determine the cost avoidance or savings resulting from innovative partnerships between the Department of Defense and the private sector;

(3) study the potential, viability, cost efficiency, and health care effectiveness of Department of Defense health care providers delivering health care in civilian community hospitals;

(4) determine the opportunities for and barriers to coordinating and leveraging the use of existing health care resources, including Federal, State, local, and contractor assets; and

(5) collaborate with State and local authorities to create an arrangement to share and exchange, between the Department of Defense and non-military health care systems, personal health information and data of military personnel and their families.

"(c) Consultation Requirements.—The Secretary of Defense shall develop the pilot program in consultation with the Secretaries of the military departments, representatives from the military installation selected for the pilot program, Federal, State, and local entities, and the TRICARE managed care support contractor with responsibility for that installation.

"(d) Selection of Military Installation.—The pilot program may be implemented at two or more military installations selected by the Secretary of Defense. At least one of the selected military installations shall meet the following criteria:

"(1) The military installation has members of the Armed Forces on active duty and members of reserve components of the Armed Forces that use the installation as a training and operational base, with members routinely deploying in support of the global war on terrorism.

"(2) The number of members of the Armed Forces on active duty permanently assigned to the military installation is [sic] has increased over the five years preceding 2008.

"(3) One or more cooperative arrangements exist at the military installation with civilian health care entities in the form of specialty care services in the military medical treatment facility on the installation.

"(4) There is a military treatment facility on the installation that does not have inpatient or trauma center care capabilities.

"(5) There is a civilian community hospital near the military installation with—

"(A) limited capability to expand inpatient care beds, intensive care, and specialty services; and

"(B) limited or no capability to provide trauma care.

"(e) Duration of Pilot Program.—Implementation of the pilot program developed under this section shall begin not later than May 1, 2005, and shall be conducted during fiscal years 2005 through 2010.

TMA Version - March 2009

"(f) Reports.—With respect to any pilot program conducted under this section, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and of the House of Representatives—
"(1) an interim report on the program, not later than 60 days after commencement of the program; and
"(2) a final report describing the results of the program with recommendations for a model health care delivery system for other military installations, not later than July 1, 2010."

TMA Version - March 2009

Demonstration Project For Expanded Access To Mental Health Counselors
Pub. L. 106-398, Sec. 1 [[div. A], title VII, Sec. 731], Oct. 30, 2000, 114 Stat. 1654, 1654A-189, directed the Secretary of Defense, not later than Mar. 31, 2001, to submit to committees of Congress a plan to carry out a demonstration project under which licensed and certified professional mental health counselors who had met eligibility requirements for participation as providers under CHAMPUS or the TRICARE program could provide services to covered beneficiaries under this chapter without referral by physicians or adherence to supervision requirements, and directed the Secretary to conduct such project during the 2-year period beginning Oct. 1, 2001, and to submit to Congress a report on such project not later than Feb. 1, 2003.

Teleradiology Demonstration Project
Pub. L. 106-398, Sec. 1 [[div. A], title VII, Sec. 732], Oct. 30, 2000, 114 Stat. 1654, 1654A-191, authorized the Secretary of Defense to conduct a demonstration project during the 2-year period beginning on Oct. 30, 2000, under which a military medical treatment facility and each clinic supported by such facility would be linked by a digital radiology network through which digital radiology X-rays could be sent electronically from clinics to the military medical treatment facility.

Joint Telemedicine And Telepharmacy Demonstration Projects By The Department Of Defense And Department Of Veterans Affairs
Pub. L. 106-65, div. A, title VII, Sec. 724, Oct. 5, 1999, 113 Stat. 697, as amended by Pub. L. 108-136, div. A, title X, Sec. 1031(h)(2), Nov. 24, 2003, 117 Stat. 1605, authorized the Secretary of Defense and the Secretary of Veterans Affairs, during the three-year period beginning on Oct. 1, 1999, to carry out joint demonstration projects for purposes of evaluating the feasibility and practicability of using telecommunications to provide radiologic and imaging services, diagnostic services, referral services, pharmacy services, and any other health care services designated by the Secretaries.

Demonstration Program To Train Military Medical Personnel In Civilian Shock Trauma Units
Pub. L. 104-106, div. A, title VII, Sec. 744, Feb. 10, 1996, 110 Stat. 386, directed the Secretary of Defense to implement, not later than Apr. 1, 1996, a demonstration program to evaluate the feasibility of providing shock trauma training for military medical personnel through an agreement with one or more public or nonprofit hospitals, and to submit to Congress a report describing the scope and activities of the program not later than Mar. 1 of each year in which it was conducted, provided for the termination of the program on Mar. 31, 1998, and required the Comptroller General of the United States to submit to Congress a report evaluating its effectiveness not later than May 1, 1998.

Demonstration Project On Management Of Health Care In Catchment Areas And Other Demonstration Projects
Pub. L. 100-180, div. A, title VII, Sec. 731, Dec. 4, 1987, 101 Stat. 1117, directed Secretary of Defense to conduct, beginning in fiscal year 1988 for at least two years, projects designed to demonstrate the alternative health care delivery system under which the commander of a medical facility of the uniformed services is responsible for all funding and all medical care of the covered beneficiaries in

the catchment area of the facility and to conduct specific projects for the purpose of demonstrating alternatives to providing health care under the military health care system, directed Secretary not later than 60 days after Dec. 4, 1987, to submit to Congress a report that provides an outline and discussion of the manner in which the Secretary intends to structure and conduct each demonstration project and to develop and submit to Congress a methodology to be used in evaluating the results of the demonstration projects, and submit to Congress an interim report on each demonstration project after such project has been in effect for at least 12 months and a final report on each such project when each project is completed.

Chiropractic Health Care

Pub. L. 108-375, div. A, title VII, Sec. 718, Oct. 28, 2004, 118 Stat. 1987, provided that:

"(a) Establishment.—Not later than 120 days after the date of the enactment of this Act [Oct. 28, 2004], the Secretary of Defense shall establish an oversight advisory committee to provide the Secretary with advice and recommendations regarding the continued development and implementation of an effective program of chiropractic health care benefits for members of the uniformed services on active duty.

"(b) Membership.—The advisory committee shall be composed of members selected from among persons who, by reason of education, training, and experience, are experts in chiropractic health care, as follows:

"(1) Members appointed by the Secretary of Defense in such number as the Secretary determines appropriate for carrying out the duties of the advisory committee effectively, including not fewer than three practicing representatives of the chiropractic health care profession.

"(2) A representative of each of the uniformed services, as designated by the administering Secretary concerned.

"(c) Chairman.—The Secretary of Defense shall designate one member of the advisory committee to serve as the Chairman of the advisory committee.

"(d) Meetings.—The advisory committee shall meet at the call of the Chairman, but not fewer than three times each fiscal year, beginning in fiscal year 2005.

"(e) Duties.—The advisory committee shall have the following duties:

"(1) Review and evaluate the program of chiropractic health care benefits provided to members of the uniformed services on active duty under chapter 55 of title 10, United States Code.

"(2) Provide the Secretary of Defense with advice and recommendations as described in subsection (a).

"(3) Upon the Secretary's determination that the program of chiropractic health care benefits referred to in paragraph (1) has been fully implemented, prepare and submit to the Secretary a report containing the advisory committee's evaluation of the implementation of such program.

"(f) Report.—The Secretary of Defense, following receipt of the report by the advisory committee under subsection (e)(3), shall submit to the Committees on Armed Services of the Senate and of the House of Representatives a report containing the following:

"(1) A copy of the advisory committee report, together with the Secretary's comments on the report.

"(2) An explanation of the criteria and rationale that the Secretary used to determine that the program of chiropractic health care benefits was fully implemented.

"(3) The Secretary's views with regard to the future implementation of the program of chiropractic health care benefits.

TMA Version - March 2009

TMA Version - March 2009

"(g) Applicability of Temporary Organizations Law.—(1) Section 3161 of title 5, United States Code, shall apply to the advisory committee under this section.

"(2) The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the oversight advisory committee under this section.

"(h) Termination.—The advisory committee shall terminate 90 days after the date on which the Secretary submits the report under subsection (f)."

Pub. L. 108-136, div. A, title VII, Sec. 711, Nov. 24, 2003, 117 Stat. 1530, provided that: "The Secretary of Defense shall accelerate the implementation of the plan required by section 702 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (Public Law 106-398; 114 Stat. 1654A-173) [set out below] (relating to chiropractic health care services and benefits), with a goal of completing implementation of the plan by October 1, 2005."

Pub. L. 106-398, Sec. 1 [[div. A], title VII, Sec. 702], Oct. 30, 2000, 114 Stat. 1654, 1654A-173, provided that:

"(a) Plan Required.—(1) Not later than March 31, 2001, the Secretary of Defense shall complete development of a plan to provide chiropractic health care services and benefits, as a permanent part of the Defense Health Program (including the TRICARE program), for all members of the uniformed services who are entitled to care under section 1074(a) of title 10, United States Code.

"(2) The plan shall provide for the following:

"(A) Access, at designated military medical treatment facilities, to the scope of chiropractic services as determined by the Secretary, which includes, at a minimum, care for neuro-musculoskeletal conditions typical among military personnel on active duty.

"(B) A detailed analysis of the projected costs of fully integrating chiropractic health care services into the military health care system.

"(C) An examination of the proposed military medical treatment facilities at which such services would be provided.

"(D) An examination of the military readiness requirements for chiropractors who would provide such services.

"(E) An examination of any other relevant factors that the Secretary considers appropriate.

"(F) Phased-in implementation of the plan over a 5-year period, beginning on October 1, 2001.

"(b) Consultation Requirements.—The Secretary of Defense shall consult with the other administering Secretaries described in section 1073 of title 10, United States Code, and the oversight advisory committee established under section 731 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103-337; 10 U.S.C. 1092 note) regarding the following:

"(1) The development and implementation of the plan required under subsection (a).

"(2) Each report that the Secretary is required to submit to Congress regarding the plan.

"(3) The selection of the military medical treatment facilities at which the chiropractic services described in subsection (a)(2)(A) are to be provided.

"(c) Continuation of Current Services.—Until the plan required under subsection (a) is implemented, the Secretary shall continue to furnish the same level of chiropractic health care services and benefits under the Defense Health Program that is provided during fiscal year 2000 at military medical treatment facilities that provide such services and benefits.

"(d) Report Required.—Not later than January 31, 2001, the Secretary of Defense shall submit a report on the plan required under subsection (a), together with appropriate appendices and

attachments, to the Committees on Armed Services of the Senate and the House of Representatives.
"(e) GAO Reports.—The Comptroller General shall monitor the development and implementation of the plan required under subsection (a), including the administration of services and benefits under the plan, and periodically submit to the committees referred to in subsection (d) written reports on such development and implementation."

Pub. L. 103-337, div. A, title VII, Sec. 731, Oct. 5, 1994, 108 Stat. 2809, as amended by Pub. L. 105-85, div. A, title VII, Sec. 739, Nov. 18, 1997, 111 Stat. 1815; Pub. L. 106-65, div. A, title VII, Sec. 702(a), Oct. 5, 1999, 113 Stat. 680, directed the Secretary of Defense to develop and carry out a demonstration program for fiscal years 1995 to 1999 to evaluate the feasibility and advisability of furnishing chiropractic care through the medical care facilities of the Armed Forces, to continue to furnish the same chiropractic care in fiscal year 2000, to submit reports to Congress in 1995 and 1998 with a final report due Jan. 31, 2000, to establish an oversight advisory committee to assist and advise the Secretary with regard to the development and conduct of the demonstration program, and, not later than Mar. 31, 2000, to submit to Congress an implementation plan for the full integration of chiropractic health care services into the military health care system of the Department of Defense, including the TRICARE program, if the provision of such care was the Secretary's recommendation.

Pub. L. 98-525, title VI, Sec. 632(b), Oct. 19, 1984, 98 Stat. 2543, provided that: "The Secretary of Defense, in consultation with the Secretary of Health and Human Services, shall conduct demonstration projects under section 1092 of title 10, United States Code, for the purpose of evaluating the cost-effectiveness of chiropractic care. In the conduct of such demonstration projects, chiropractic care (including manual manipulation of the spine and other routine chiropractic procedures authorized under joint regulations prescribed by the Secretary of Defense and the Secretary of Health and Human Services and not otherwise prohibited by law) may be provided as appropriate under chapter 55 of title 10, United States Code."

TMA Version - March 2009

§ 1097. Contracts for medical care for retirees, dependents, and survivors: alternative delivery of health care

TMA Version - March 2009

(a) In General.—The Secretary of Defense, after consulting with the other administering Secretaries, may contract for the delivery of health care to which covered beneficiaries are entitled under this chapter. The Secretary may enter into a contract under this section with any of the following:

(1) Health maintenance organizations.

(2) Preferred provider organizations.

(3) Individual providers, individual medical facilities, or insurers.

(4) Consortiums of such providers, facilities, or insurers.

(b) Scope of Coverage Under Health Care Plans.—A contract entered into under this section may provide for the delivery of—

(1) selected health care services;

(2) total health care services for selected covered beneficiaries; or

(3) total health care services for all covered beneficiaries who reside in a geographical area designated by the Secretary.

(c) Coordination With Facilities of the Uniformed Services.—The Secretary of Defense may provide for the coordination of health care services provided pursuant to any contract or agreement under this section with those services provided in medical treatment facilities of the uniformed services. Subject to the availability of space and facilities and the capabilities of the medical or dental staff, the Secretary may not deny access to facilities of the uniformed services to a covered beneficiary on the basis of whether the beneficiary enrolled or declined enrollment in any program established under, or operating in connection with, any contract under this section. Notwithstanding the preferences established by sections 1074(b) and 1076 of this title, the Secretary shall, as an incentive for enrollment, establish reasonable preferences for services in facilities of the uniformed services for covered beneficiaries enrolled in any program established under, or operating in connection with, any contract under this section.

(d) Coordination With Other Health Care Programs.—In the case of a covered beneficiary who is enrolled in a managed health care program not operated under the authority of this chapter, the Secretary may contract under this section with such other managed health care program for the purpose of coordinating the beneficiary's dual entitlements under such program and this chapter. A managed health care program with which arrangements may be made under this subsection

TMA Version - March 2009

includes any health maintenance organization, competitive medical plan, health care prepayment plan, or other managed care program recognized pursuant to regulations issued by the Secretary.

(e) Charges for Health Care.—The Secretary of Defense may prescribe by regulation a premium, deductible, copayment, or other charge for health care provided under this section. In the case of contracts for health care services under this section or health care plans offered under section 1099 of this title for which the Secretary permits covered beneficiaries who are covered by section 1086 of this title and who participate in such contracts or plans to pay an enrollment fee in lieu of meeting the applicable deductible amount specified in section 1086(b) of this title, the Secretary may establish the same (or a lower) enrollment fee for covered beneficiaries described in section 1086(d)(1) of this title who also participate in such contracts or plans. Without imposing additional costs on covered beneficiaries who participate in contracts for health care services under this section or health care plans offered under section 1099 of this title, the Secretary shall permit such covered beneficiaries to pay, on a quarterly basis, any enrollment fee required for such participation. A premium, deductible, copayment, or other charge prescribed by the Secretary under this subsection may not be increased during the period beginning on April 1, 2006, and ending on September 30, 2009.

NOTES

Source

(Added Pub. L. 99-661, div. A, title VII, Sec. 701(a)(1), Nov. 14, 1986, 100 Stat. 3895; amended Pub. L. 103-337, div. A, title VII, Secs. 713, 714(a), Oct. 5, 1994, 108 Stat. 2802; Pub. L. 104-106, div. A, title VII, Secs. 712, 713, Feb. 10, 1996, 110 Stat. 374; Pub. L. 109-364, div. A, title VII, Sec. 704(a), Oct. 17, 2006, 120 Stat. 2280; Pub. L. 110-181, div. A, title VII, Sec. 701(a), Jan. 28, 2008, 122 Stat. 187; Pub. L. 110-417, [div. A], title VII, Sec. 701(a), Oct. 14, 2008, 122 Stat. 4498.)

Amendments

2008—Subsec. (e). Pub. L. 110-417 substituted "September 30, 2009" for "September 30, 2008". Pub. L. 110-181 substituted "September 30, 2008" for "September 30, 2007".

2006—Subsec. (e). Pub. L. 109-364 inserted at end "A premium, deductible, copayment, or other charge prescribed by the Secretary under this subsection may not be increased during the period beginning on April 1, 2006, and ending on September 30, 2007."

1996—Subsec. (c). Pub. L. 104-106, Sec. 712, substituted "Notwithstanding the preferences established by sections 1074(b) and 1076 of this title, the Secretary shall" for "However, the Secretary may".
Subsec. (e). Pub. L. 104-106, Sec. 713, inserted at end "Without imposing additional costs on covered beneficiaries who participate in contracts for health care services under this section or health care plans offered under section 1099 of this title, the Secretary shall permit such covered beneficiaries to pay, on a quarterly basis, any enrollment fee required for such participation."

1994—Subsec. (c). Pub. L. 103-337, Sec. 714(a)(2), added subsec. (c). Former subsec. (c) redesignated (e).

Pub. L. 103-337, Sec. 713, inserted at end "In the case of contracts for health care services under this section or health care plans offered under section 1099 of this title for which the Secretary permits covered beneficiaries who are covered by section 1086 of this title and who participate in such contracts or plans to pay an enrollment fee in lieu of meeting the applicable deductible amount specified in section 1086(b) of this title, the Secretary may establish the same (or a lower) enrollment fee for covered beneficiaries described in section 1086(d)(1) of this title who also participate in such contracts or plans."

Subsecs. (d), (e). Pub. L. 103-337, Sec. 714(a), added subsec. (d) and redesignated former subsec. (c) as (e).

TMA Version - March 2009

§ 1108. Health care coverage through Federal Employees Health Benefits program: demonstration project

TMA Version - March 2009

(a) FEHBP Option Demonstration.—The Secretary of Defense, after consulting with the other administering Secretaries, shall enter into an agreement with the Office of Personnel Management to conduct a demonstration project (in this section referred to as the "demonstration project") under which eligible beneficiaries described in subsection (b) and residing within one of the areas covered by the demonstration project may enroll in health benefits plans offered through the Federal Employees Health Benefits program under chapter 89 of title 5. The number of eligible beneficiaries and family members of such beneficiaries under subsection (b)(2) who may be enrolled in health benefits plans during the enrollment period under subsection (d)(2) may not exceed 66,000.

(b) Eligible Beneficiaries; Coverage.—(1) An eligible beneficiary under this subsection is—

(A) a member or former member of the uniformed services described in section 1074(b) of this title who is entitled to hospital insurance benefits under part A of title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.);

(B) an individual who is an unremarried former spouse of a member or former member described in section 1072(2)(F) or 1072(2)(G));

(C) an individual who is—

(i) a dependent of a deceased member or former member described in section 1076(b) or 1076(a)(2)(B) of this title or of a member who died while on active duty for a period of more than 30 days; and

(ii) a member of family as defined in section 8901(5) of title 5; or

(D) an individual who is—

(i) a dependent of a living member or former member described in section 1076(b)(1) of this title who is entitled to hospital insurance benefits under part A of title XVIII of the Social Security Act, regardless of the member's or former member's eligibility for such hospital insurance benefits; and

(ii) a member of family as defined in section 8901(5) of title 5.

(2) Eligible beneficiaries may enroll in a Federal Employees Health Benefit plan under chapter 89 of title 5 under this section for self-only coverage or for self and family coverage which includes any dependent of the member or former member who is a family member for purposes of such chapter.

TMA Version - March 2009

(3) A person eligible for coverage under this subsection shall not be required to satisfy any eligibility criteria specified in chapter 89 of title 5 (except as provided in paragraph (1)(C) or (1)(D)) as a condition for enrollment in health benefits plans offered through the Federal Employees Health Benefits program under the demonstration project.

(4) For purposes of determining whether an individual is a member of family under paragraph (5) of section 8901 of title 5 for purposes of paragraph (1)(C) or (1)(D), a member or former member described in section 1076(b) or 1076(a)(2)(B) of this title shall be deemed to be an employee under such section.

(5) An eligible beneficiary who is eligible to enroll in the Federal Employees Health Benefits program as an employee under chapter 89 of title 5 is not eligible to enroll in a Federal Employees Health Benefits plan under this section.

(c) Area of Demonstration Project.—The Secretary of Defense and the Director of the Office of Personnel Management shall jointly identify and select the geographic areas in which the demonstration project will be conducted. The Secretary and the Director shall establish at least six, but not more than ten, such demonstration areas. In establishing the areas, the Secretary and Director shall include—

(1) an area that includes the catchment area of one or more military medical treatment facilities;

(2) an area that is not located in the catchment area of a military medical treatment facility;

(3) an area in which there is a Medicare Subvention Demonstration project area under section 1896[(1)] of title XVIII of the Social Security Act (42 U.S.C. 1395ggg); and

(4) not more than one area for each TRICARE region.

(d) Duration of Demonstration Project.—(1) The Secretary of Defense shall conduct the demonstration project during three contract years under the Federal Employees Health Benefits program.

(2) Eligible beneficiaries shall, as provided under the agreement pursuant to subsection (a), be permitted to enroll in the demonstration project during an open enrollment period for the year 2000 (conducted in the fall of 1999). The demonstration project shall terminate on December 31, 2002.

(e) Prohibition Against Use of MTFs and Enrollment Under TRICARE.—Covered beneficiaries under this chapter who are provided coverage under the demonstration project shall not be eligible to receive care at a military medical treatment facility or to enroll in a health care plan under the TRICARE program.

(f) Term of Enrollment in Project.—(1) Subject to paragraphs (2) and (3), the period of enrollment of an eligible beneficiary who enrolls in the demonstration project during the open enrollment period for the year 2000 shall be three years unless the beneficiary disenrolls before the termination of the project.

(l) Application of Medigap Protections to Demonstration Project Enrollees.—(1) Subject to paragraph (2), the provisions of section 1882(s)(3) (other than clauses (i) through (iv) of subparagraph (B)) and 1882(s)(4) of the Social Security Act shall apply to enrollment (and termination of enrollment) in the demonstration project under this section, in the same manner as they apply to enrollment (and termination of enrollment) with a Medicare+Choice[(2)] organization in a Medicare+Choice[(2)] plan.

(2) In applying paragraph (1)—

(A) any reference in clause (v) or (vi) of section 1882(s)(3)(B) of such Act to 12 months is deemed a reference to 36 months; and

(B) the notification required under section 1882(s)(3)(D) of such Act shall be provided in a manner specified by the Secretary of Defense in consultation with the Director of the Office of Personnel Management.

NOTES

Source
(Added Pub. L. 105-261, div. A, title VII, Sec. 721(a)(1), Oct. 17, 1998, 112 Stat. 2061; amended Pub. L. 108-375, div. A, title X, Sec. 1084(d)(8), Oct. 28, 2004, 118 Stat. 2061.)

References In Text
The Social Security Act, referred to in subsecs. (b)(1)(A), (D)(i), (j)(2)(K)(ii), and (l)(1), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Part A of title XVIII of the Act is classified generally to Part A (Sec. 1395c et seq.) of subchapter XVIII of chapter 7 of Title 42, The Public Health and Welfare. Section 1882 of the Act is classified to section 1395ss of Title 42. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

Section 1896 of the Social Security Act, referred to in subsec. (c)(3), was classified to section 1395ggg of Title 42, The Public Health and Welfare, and was omitted from the Code.

Amendments
2004—Subsec. (e). Pub. L. 108-375 substituted “health” for “heath“.

Change Of Name
References to Medicare+Choice deemed to refer to Medicare Advantage or MA, subject to an appropriate transition provided by the Secretary of Health and Human Services in the use of those terms, see section 201(b) of Pub. L. 108-173, set out as a note under section 1395w-21 of Title 42, The Public Health and Welfare.

Comprehensive Evaluation Of Implementation Of Demonstration Projects And TRICARE Pharmacy Redesign
Pub. L. 105-261, div. A, title VII, Sec. 724, Oct. 17, 1998, 112 Stat. 2069, as amended by Pub. L. 106-65, div. A, title X, Sec. 1067(3), Oct. 5, 1999, 113 Stat. 774, required the Comptroller General, not later than Mar. 31, 2003, to submit to committees of Congress a report containing a comprehensive comparative analysis of the FEHBP demonstration project conducted under this section, the

TMA Version - March 2009

TRICARE Senior Supplement under Pub. L. 105-261, Sec. 722, formerly set out as a note under section 1073 of this title, and the redesign of the TRICARE pharmacy system under section Pub. L. 105-261, Sec. 723, set out as a note under section 1073 of this title.

Footnote

(1) See References in Text note below.

(2) See Change of Name note below.

TMA Version - March 2009

§ 1110a. Notification of certain individuals regarding options for enrollment under Medicare part B

TMA Version - March 2009

(a) In General.—(1) As soon as practicable, the Secretary of Defense shall notify each individual described in subsection (b)—

(A) that the individual is no longer eligible for health care bbbenefits under the TRICARE program under this chapter; and

(B) of options available for enrollment of the individual in the supplementary medical insurance program under part B of title XVIII of the Social Security Act (42 U.S.C. 1395j et seq.).

(2) In carrying out this subsection, the Secretary of Defense shall—

(A) establish procedures for identifying individuals described in subsection (b); and

(B) consult with the Secretary of Health and Human Services to accurately identify and notify such individuals.

(b) Individuals Described.—An individual described in this subsection is an individual who is—

(1) a covered beneficiary;

(2) entitled to benefits under part A of title XVIII of the Social Security Act (42 U.S.C. 1395c) under section 226(b) or section 226A of such Act (42 U.S.C. 426(b) and 426-1); and

(3) eligible to enroll in the supplementary medical insurance program under part B of such title (42 U.S.C. 1395j et seq.).

NOTES

Source
(Added Pub. L. 111-84, div. A, title VII, Sec. 707(a), Oct. 28, 2009, 123 Stat. 2376.)

References In Text
The Social Security Act, referred to in subsecs. (a)(1)(B) and (b)(2), (3), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Parts A and B of title XVIII of the Act are classified generally to parts A (Sec. 1395c et seq.) and B (Sec. 1395j et seq.), respectively, of subchapter XVIII of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.