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TRICARE
MANAGEMENT ACTIVITY

MB&RB

CHANGE 2
10 USC 55
JULY 18, 2011

**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 USC Chapter 55 (TMA Version), reissued March 2009.

CHANGE TITLE: **JANUARY 2011 UPDATE**

DATE LISTED: January 7, 2011.

PAGE CHANGE(S): USC Classification Table, 111th, Second Session (Public Laws 111-126, 111-127, 111-136, 111-138 through 110-383)—Prepared by Office of the Law Revision Counsel, U.S. House of Representatives (January 7, 2011).

PAGE CHANGE(S): See page 2.

ATTACHMENT(S): 83 PAGES
DISTRIBUTION: 10 USC 55

REMOVE PAGE(S)

Table of Contents, page 3
Amendments, pages 1 and 2
Updates, pages 1, 2, 5, and 6
Section 1071, pages 7 - 10 and 43 - 46
Section 1073, pages 1 - 30
Section 1074f, pages 1 - 6
Section 1074g, pages 5 - 8
Section 1076a, pages 3 - 6
Section 1079, pages 21 - 24
Section 1086, pages 1 - 10
Section 1094, pages 1 - 3
Section 1097, pages 1 and 2
★ ★ ★ ★ ★ ★

INSERT PAGE(S)

Table of Contents, page 3
Amendments, pages 1 and 2
Updates, pages 1, 2, 5, and 6
Section 1071, pages 7 - 10 and 43 - 46
Section 1073, pages 1 - 31
Section 1074f, pages 1 - 7
Section 1074g, pages 5 - 9
Section 1076a, pages 3 - 6
Section 1079, pages 21 - 24
Section 1086, pages 1 - 10
Section 1094, pages 1 - 3
Section 1097, pages 1 and 2
Section 1110b, pages 1 and 2

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
1110b.	TRICARE program: extension of dependent coverage

Title 10 - Armed Forces
Subtitle A - General Military Law
Part II - Personnel
Chapter 55 - Medical And Dental Care

Amendments

2011—Pub. L. 111-383, div. A, title VII, Sec. 702(a)(2), Jan. 7, 2011, 124 Stat. 4245, added item 1110b.

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

**10 USC Chapter 55 - Medical And Dental Care
Amendments**

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.

Title 10 - Armed Forces
Subtitle A - General Military Law
Part II - Personnel
Chapter 55 - Medical And Dental Care

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 **January 7, 2011**.

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

**10 USC Chapter 55 - Medical And Dental Care
Updates**

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

**10 USC Chapter 55 - Medical And Dental Care
Updates**

Change 2 Version: Title 10 of the USC as currently published by the U.S. Government reflects the laws passed by Congress as of January 7, 2011.

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 February 1, 2010 to the most recent entry on Friday, January 7, 2011.

USC Classification Table, 111th, Second Session (Public Laws 111-126, 111-127, 111-136, 111-138 through 110-383)—Prepared by Office of the Law Revision Counsel, U.S. House of Representatives (January 7, 2011).

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Columns 3, 4, and 5 - Contain Public Law, Section, and Statutes-at-Large citations. An item in quotes following the section citation in column 4 indicates a new section that is being added either to a positive law title or to an existing Act classified to a non-positive law title. In the case of Public Law 111-148, §10221(a), the first item in quotes indicates a section of S. 1790 enacted into law, and, when present, a second item in single quotes indicates a new section added to the Indian Health Care Improvement Act by that section of S. 1790.

Section	Description of Change	Public Law		Statutes at Large
		Law	Section	Volume STAT. Page(s)
Second Session				
1071	prec	111-383	702(a)(2)	4245
1071	nt	111-383	901(a)(2)	4317
1071	nt	111-383	1075(d)(8)	4373
1073	111-383	711	4246	
1073	nt new	111-383	724	4252
1074f	111-383	712	4247	
1074f	nt new	111-383	722	4251
1074g	nt	111-383	1075(g)(5)	4377
1074g	nt new	111-383	716	4250
1076a	111-383	703	4245	
1079	nt	111-383	1075(e)(11)	4375
1086	111-383	701(b)	4244	

TMA Version - March 2009

**10 USC Chapter 55 - Medical And Dental Care
Updates**

Section	Description of Change	Public Law		Statutes at Large
		Law	Section	Volume STAT. Page(s)
1094	111-383	713	4247	
1097	111-383	701(a)	4244	
1110b	new	111-383	702(a)(1) "1110b"	4244
1110b	nt new	111-383	702(b)	4245

TMA Version - March 2009

10 USC Chapter 55 - Medical And Dental Care
§ 1071. Purpose of this chapter

(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, **as amended by Pub. L. 111-383, div. A, title X, Sec. 1075(d)(8), Jan. 7, 2011, 124 Stat. 4373**, 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

10 USC Chapter 55 - Medical And Dental Care
§ 1071. Purpose of this chapter

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 feasibility and advisability of establishing one or more military mental health specialties 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 feasibility and advisability of establishing one or more military mental health specialties for officers or enlisted members of the Armed Forces.

10 USC Chapter 55 - Medical And Dental Care
§ 1071. Purpose of this chapter

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

(A)—

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

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

- (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.”

10 USC Chapter 55 - Medical And Dental Care
§ 1071. Purpose of this chapter

“(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

10 USC Chapter 55 - Medical And Dental Care
§ 1071. Purpose of this chapter

“(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, as amended by Pub. L. 111-383, div A, title IX, Sec. 901(a)(2), Jan 7, 2011, 124 Stat. 4317, 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 Assistant Secretary of Defense for 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).

10 USC Chapter 55 - Medical And Dental Care
§ 1071. Purpose of this chapter

TMA Version - March 2009

“(d) Other Related Research Efforts.—The Assistant Secretary of Defense for 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.

10 USC Chapter 55 - Medical And Dental Care
§ 1071. Purpose of this chapter

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

Title 10 - Armed Forces
Subtitle A - General Military Law
Part II - Personnel
Chapter 55 - Medical And Dental Care

§ 1073. Administration of this chapter

(a) Responsible Officials.—(1) 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.).

(2) Except as otherwise provided in this chapter, the Secretary of Defense shall have responsibility for administering the TRICARE program and making any decision affecting such program.

(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; **Pub. L. 111-383, div. A, title VII, Sec. 711, Jan. 7, 2011, 124 Stat. 4246.**)

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.

TMA Version - March 2009

10 USC Chapter 55 - Medical And Dental Care
§ 1073. Administration of this chapter

References In Text

The Assisted Suicide Funding Restriction Act of 1997, referred to in subsec. (a)(1), 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.

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

2011—Subsec. (a). Pub. L. 111-383 designated existing provisions as par. (1) and added par. (2).

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.

TMA Version - March 2009

10 USC Chapter 55 - Medical And Dental Care
§ 1073. Administration of this chapter

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.”

TMA Version - March 2009

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 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;

10 USC Chapter 55 - Medical And Dental Care
§ 1073. Administration of this chapter

- (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.

TMA Version - March 2009

10 USC Chapter 55 - Medical And Dental Care
§ 1073. Administration of this chapter

(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.

“(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. 111-383, div. A, title VII, Sec. 724, Jan. 7, 2011, 124 Stat. 4252, provided that: “Not later than June 20, 2011, the Secretary of Defense shall prescribe the regulations required by section 717 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110-181; 10 U.S.C. 1073 note).”

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.”

10 USC Chapter 55 - Medical And Dental Care
§ 1073. Administration of this chapter

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

TMA Version - March 2009

(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.

“(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;

10 USC Chapter 55 - Medical And Dental Care
§ 1073. Administration of this chapter

“(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

TMA Version - March 2009

10 USC Chapter 55 - Medical And Dental Care
§ 1073. Administration of this chapter

“(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;

“(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

10 USC Chapter 55 - Medical And Dental Care
§ 1073. Administration of this chapter

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.”

TMA Version - March 2009

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.

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].”

10 USC Chapter 55 - Medical And Dental Care
§ 1073. Administration of this chapter

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

TMA Version - March 2009

10 USC Chapter 55 - Medical And Dental Care
§ 1073. Administration of this chapter

TMA Version - March 2009

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.

“(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

10 USC Chapter 55 - Medical And Dental Care
§ 1073. Administration of this chapter

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;

TMA Version - March 2009

10 USC Chapter 55 - Medical And Dental Care
§ 1073. Administration of this chapter

TMA Version - March 2009

- “(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-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

10 USC Chapter 55 - Medical And Dental Care
§ 1073. Administration of this chapter

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 ([former] 41 U.S.C. 421(c) [now 41 U.S.C. 1303(a)]) shall apply to the agreements as acquisitions of commercial items.

“(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].

10 USC Chapter 55 - Medical And Dental Care
§ 1073. Administration of this chapter

“(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

TMA Version - March 2009

10 USC Chapter 55 - Medical And Dental Care
§ 1073. Administration of this chapter

TMA Version - March 2009

“(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 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.

10 USC Chapter 55 - Medical And Dental Care
§ 1073. Administration of this chapter

“(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.”]

TMA Version - March 2009

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 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.

10 USC Chapter 55 - Medical And Dental Care
§ 1073. Administration of this chapter

“(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.”

TMA Version - March 2009

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 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

10 USC Chapter 55 - Medical And Dental Care
§ 1073. Administration of this chapter

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

TMA Version - March 2009

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 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.

10 USC Chapter 55 - Medical And Dental Care
§ 1073. Administration of this chapter

“(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

“(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

TMA Version - March 2009

10 USC Chapter 55 - Medical And Dental Care
§ 1073. Administration of this chapter

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

“(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).

TMA Version - March 2009

10 USC Chapter 55 - Medical And Dental Care
§ 1073. Administration of this chapter

“(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

TMA Version - March 2009

10 USC Chapter 55 - Medical And Dental Care
§ 1073. Administration of this chapter

TMA Version - March 2009

“(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.

“(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)).

**10 USC Chapter 55 - Medical And Dental Care
§ 1073. Administration of this chapter**

“(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)).”

TMA Version - March 2009

§ 1074f. Medical tracking system for members deployed overseas

(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)(A) The system described in subsection (a) shall include the use of predeployment medical examinations and postdeployment medical examinations (including the assessment of mental health and the drawing of blood samples) and postdeployment health assessments to—

(i) accurately record the health status of members before their deployment;

(ii) accurately record any changes in their health status during the course of their deployment; and

(iii) identify health concerns, including mental health concerns, that may become manifest several months following their deployment.

(B) The postdeployment medical 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).

(C) The postdeployment health reassessment shall be conducted at an appropriate time during the period beginning 90 days after the member is redeployed and ending 180 days after the member is redeployed.

(2) The predeployment medical examination, postdeployment medical examination, and postdeployment health assessment 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

10 USC Chapter 55 - Medical And Dental Care
§ 1074f. Medical tracking system for members deployed overseas

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 and assessments conducted under the system, records of all health care services (including immunizations and the prescription and administration of psychotropic medications) 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 predeployment medical examinations, postdeployment medical examinations, and postdeployment health assessments 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 and reassessments.

(B) The training received by such providers applicable to the conduct of such assessments and reassessments, 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.

TMA Version - March 2009

10 USC Chapter 55 - Medical And Dental Care
§ 1074f. Medical tracking system for members deployed overseas

(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; **Pub. L. 111-383, div. A, title VII, Sec. 712, Jan. 7, 2011, 124 Stat. 4247.**)

Amendments

2011—Subsec. (b)(1). Pub. L. 111-383, Sec. 712(a), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “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

TMA Version - March 2009

member is redeployed or otherwise leaves an area in which the system is in operation (or as soon as possible thereafter)."

Subsec. (b)(2). Pub. L. 111-383, Sec. 712(b), substituted "medical examination, postdeployment medical examination, and postdeployment health reassessment" for "and postdeployment medical examination" in introductory provisions.

Subsec. (c). Pub. L. 111-383, Sec. 712(c), inserted "and reassessments" after "medical examinations" and "and the prescription and administration of psychotropic medications" after "including immunizations".

Subsec. (d)(1). Pub. L. 111-383, Sec. 712(d)(1), substituted "; postdeployment medical examinations, and postdeployment health reassessments" for "and postdeployment medical examinations".

Subsec. (d)(2)(A). Pub. L. 111-383, Sec. 712(d)(2)(A), inserted "and reassessments" after "postdeployment health assessments".

Subsec. (d)(2)(B). Pub. L. 111-383, Sec. 712(d)(2)(B), inserted "and reassessments" after "such assessments".

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).

Comprehensive Policy On Consistent Neurological Cognitive Assessments Of Members Of The Armed Forces Before And After Deployment

Pub. L. 111-383, div. A, title VII, Sec. 722, Jan. 7, 2011, 124 Stat. 4251, provided that:

"(a) Comprehensive Policy Required.—Not later than January 31, 2011, the Secretary of Defense shall develop and implement a comprehensive policy on consistent neurological cognitive assessments of members of the Armed Forces before and after deployment.

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

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.

10 USC Chapter 55 - Medical And Dental Care
§ 1074f. Medical tracking system for members deployed overseas

(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

TMA Version - March 2009

10 USC Chapter 55 - Medical And Dental Care
§ 1074f. Medical tracking system for members deployed overseas

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.

10 USC Chapter 55 - Medical And Dental Care
§ 1074f. Medical tracking system for members deployed overseas

(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

10 USC Chapter 55 - Medical And Dental Care
§ 1074g. Pharmacy benefits program

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

**10 USC Chapter 55 - Medical And Dental Care
§ 1074g. Pharmacy benefits program**

Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

Education And Training On Use Of Pharmaceuticals In Rehabilitation Programs For Wounded Warriors

Pub. L. 111-383, div. A, title VII, Sec. 716, Jan. 7, 2011, 124 Stat. 4250, provided that:

“(a) Education and Training Required.—The Secretary of Defense shall develop and implement training, available through the Internet or other means, on the use of pharmaceuticals in rehabilitation programs for seriously ill or injured members of the Armed Forces.

“(b) Recipients of Training.—The training developed and implemented under subsection (a) shall be training for each category of individuals as follows:

“(1) Patients in or transitioning to a wounded warrior unit, with special accommodation in such training for such patients with cognitive disabilities.

“(2) Nonmedical case managers.

“(3) Military leaders.

“(4) Family members.

“(c) Elements of Training.—The training developed and implemented under subsection (a) shall include the following:

“(1) An overview of the fundamentals of safe prescription drug use.

“(2) Familiarization with the benefits and risks of using pharmaceuticals in rehabilitation therapies.

“(3) Examples of the use of pharmaceuticals for individuals with multiple, complex injuries, including traumatic brain injury and post-traumatic stress disorder.

“(4) Familiarization with means of finding additional resources for information on pharmaceuticals.

“(5) Familiarization with basic elements of pain and pharmaceutical management.

“(6) Familiarization with complementary and alternative therapies.

“(d) Tailoring of Training.—The training developed and implemented under subsection (a) shall appropriately tailor the elements specified in subsection (c) for and among each category of individuals set forth in subsection (b).

“(e) Review of Pharmacy.—

“(1) Review.—The Secretary shall review all policies and procedures of the Department of Defense regarding the use of pharmaceuticals in rehabilitation programs for seriously ill or injured members of the Armed Forces.

“(2) Recommendations.—Not later than September 20, 2011, the Secretary shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] any recommendations for administrative or legislative action with respect to the review under paragraph (1) as the Secretary considers appropriate.”

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, **as amended by Pub. L. 111-383, div. A, title X, Sec. 1075(g)(5), Jan. 7, 2011, 124 Stat. 4377**, 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.

10 USC Chapter 55 - Medical And Dental Care
§ 1074g. Pharmacy benefits program

TMA Version - March 2009

“(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) 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.

10 USC Chapter 55 - Medical And Dental Care
§ 1074g. Pharmacy benefits program

- “(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’ means 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 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.

TMA Version - March 2009

Footnote

⁽¹⁾ See References in Text note below.

TMA Version - March 2009

10 USC Chapter 55 - Medical And Dental Care
§ 1076a. TRICARE dental program

(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—

(A) while on active duty for a period of more than 30 days; or

(B) while such member is a member of the Ready Reserve.

(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.

TMA Version - March 2009

10 USC Chapter 55 - Medical And Dental Care
§ 1076a. TRICARE dental program

(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; **Pub. L. 111-383, div. A, title VII, Sec. 703, Jan. 7, 2011, 124 Stat. 4245.**)

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.

Amendments

2011—Subsec. (k)(2). Pub. L. 111-383 amended par. (2) generally. Prior to amendment, par. (2) read as follows: "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

"(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."

10 USC Chapter 55 - Medical And Dental Care
§ 1076a. TRICARE dental program

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

**10 USC Chapter 55 - Medical And Dental Care
§ 1076a. TRICARE dental program**

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.”

10 USC Chapter 55 - Medical And Dental Care
§ 1079. Contracts for medical care for spouses and children: plans

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

10 USC Chapter 55 - Medical And Dental Care
§ 1079. Contracts for medical care for spouses and children: plans

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, **as amended by Pub. L. 111-383, div. A, title X, Sec. 1075(e)(11), Jan. 7, 2011, 124 Stat. 4375**, 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 beneficiaries 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.

10 USC Chapter 55 - Medical And Dental Care
§ 1079. Contracts for medical care for spouses and children: plans

(2) Medicare-eligible.—The term ‘medicare-eligible’ has the meaning provided by section 1111(b)(3) 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

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.

§ 1086. **Contracts for health benefits for certain members, former members, and their dependents**

(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, 2011. 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

10 USC Chapter 55 - Medical And Dental Care
§ 1086. Contracts for health benefits for certain members, former members, and their dependents

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.

10 USC Chapter 55 - Medical And Dental Care

§ 1086. Contracts for health benefits for certain members, former members, and their dependents

(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.

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; **Pub. L. 111-383, div. A, title VII, Sec. 701(b), Jan. 7, 2011, 124 Stat. 4244.**)

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.

10 USC Chapter 55 - Medical And Dental Care

§ 1086. Contracts for health benefits for certain members, former members, and their dependents

Amendments

2011—Subsec. (b)(3). Pub. L. 111-383 substituted “September 30, 2011” for “September 30, 2010”.

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.”

TMA Version - March 2009

10 USC Chapter 55 - Medical And Dental Care

§ 1086. Contracts for health benefits for certain members, former members, and their dependents

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.”

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.

10 USC Chapter 55 - Medical And Dental Care

§ 1086. Contracts for health benefits for certain members, former members, and their dependents

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.

TMA Version - March 2009

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.

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.

10 USC Chapter 55 - Medical And Dental Care

§ 1086. Contracts for health benefits for certain members, former members, and their dependents

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

TMA Version - March 2009

10 USC Chapter 55 - Medical And Dental Care
§ 1086. Contracts for health benefits for certain members, former members, and their dependents

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]."]

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

§ 1094. Licensure requirement for health-care professionals

(a)(1) A person under the jurisdiction of the Secretary of a military department may not provide health care independently as a health-care professional under this chapter unless the person has a current license to provide such care. In the case of a physician, the physician may not provide health care as a physician under this chapter unless the current license is an unrestricted license that is not subject to limitation on the scope of practice ordinarily granted to other physicians for a similar specialty by the jurisdiction that granted the license.

(2) The Secretary of Defense may waive paragraph (1) with respect to any person in unusual circumstances. The Secretary shall prescribe by regulation the circumstances under which such a waiver may be granted.

(b) The commanding officer of each health care facility of the Department of Defense shall ensure that each person who provides health care independently as a health-care professional at the facility meets the requirement of subsection (a).

(c)(1) A person (other than a person subject to chapter 47 of this title) who provides health care in violation of subsection (a) is subject to a civil money penalty of not more than \$5,000.

(2) The provisions of subsections (c) and (e) through (h) of section 1128A of the Social Security Act (42 U.S.C. 1320a-7a) shall apply to the imposition of a civil money penalty under paragraph (1) in the same manner as they apply to the imposition of a civil money penalty under that section, except that for purposes of this subsection—

(A) a reference to the Secretary in that section is deemed a reference to the Secretary of Defense; and

(B) a reference to a claimant in subsection (e) of that section is deemed a reference to the person described in paragraph (1).

(d)(1) Notwithstanding any law regarding the licensure of health care providers, a health-care professional described in paragraph (2) **or (3)** may practice the health profession or professions of the health-care professional in any State, the District of Columbia, or a Commonwealth, territory, or possession of the United States, regardless of whether the practice occurs in a health care facility of the Department of Defense, a civilian facility affiliated with the Department of Defense, or any other location authorized by the Secretary of Defense.

(2) A health-care professional referred to in paragraph (1) **as being described in this paragraph** is a member of the armed forces who—

(A) has a current license to practice medicine, osteopathic medicine, dentistry, or another health profession; and

10 USC Chapter 55 - Medical And Dental Care
§ 1094. Licensure requirement for health-care professionals

(B) is performing authorized duties for the Department of Defense.

(3) A health-care professional referred to in paragraph (1) as being described in this paragraph is a member of the National Guard who—

(A) has a current license to practice medicine, osteopathic medicine, dentistry, or another health profession; and

(B) is performing training or duty under section 502(f) of title 32 in response to an actual or potential disaster.

(e) In this section:

(1) The term “license”—

(A) means a grant of permission by an official agency of a State, the District of Columbia, or a Commonwealth, territory, or possession of the United States to provide health care independently as a health-care professional; and

(B) includes, in the case of such care furnished in a foreign country by any person who is not a national of the United States, a grant of permission by an official agency of that foreign country for that person to provide health care independently as a health-care professional.

(2) The term “health-care professional” means a physician, dentist, clinical psychologist, marriage and family therapist certified as such by a certification recognized by the Secretary of Defense, or nurse and any other person providing direct patient care as may be designated by the Secretary of Defense in regulations.

NOTES

Source

(Added Pub. L. 99-145, title VI, Sec. 653(a)(1), Nov. 8, 1985, 99 Stat. 657; amended Pub. L. 99-661, div. A, title XIII, Sec. 1343(a)(5), Nov. 14, 1986, 100 Stat. 3992; Pub. L. 101-189, div. A, title VI, Sec. 653(e)(1), title XVI, Sec. 1622(e)(3), Nov. 29, 1989, 103 Stat. 1463, 1605; Pub. L. 105-85, div. A, title VII, Sec. 737, Nov. 18, 1997, 111 Stat. 1814; Pub. L. 105-261, div. A, title VII, Sec. 734(a), Oct. 17, 1998, 112 Stat. 2072; Pub. L. 108-375, div. A, title VII, Sec. 717(b), Oct. 28, 2004, 118 Stat. 1986; **Pub. L. 111-383, div. A, title VII, Sec. 713, Jan. 7, 2011, 124 Stat. 4247.**)

Amendments

2011—Subsec. (d)(1). **Pub. L. 111-383, Sec. 713(1), inserted “or (3)” after “paragraph (2)”.**
Subsec. (d)(2). **Pub. L. 111-383, Sec. 713(2), inserted “as being described in this paragraph” after “paragraph (1)” in introductory provisions.**
Subsec. (d)(3). **Pub. L. 111-383, Sec. 713(3), added par. (3).** 2004—Subsec. (e)(2). **Pub. L. 108-375 inserted “marriage and family therapist certified as such by a certification recognized by the Secretary of Defense,” after “psychologist,”.**

10 USC Chapter 55 - Medical And Dental Care
§ 1094. Licensure requirement for health-care professionals

2004—Subsec. (e)(2). Pub. L. 108-375 inserted “marriage and family therapist certified as such by a certification recognized by the Secretary of Defense,” after “psychologist.”

1998—Subsec. (a)(1). Pub. L. 105-261 inserted at end “In the case of a physician, the physician may not provide health care as a physician under this chapter unless the current license is an unrestricted license that is not subject to limitation on the scope of practice ordinarily granted to other physicians for a similar specialty by the jurisdiction that granted the license.”

1997—Subsecs. (d), (e). Pub. L. 105-85 added subsec. (d) and redesignated former subsec. (d) as (e).

1989—Subsec. (c)(2). Pub. L. 101-189, Sec. 653(e)(1), substituted “subsections (c) and (e) through (h)” for “subsections (b) and (d) through (g)”.

Subsec. (d)(1). Pub. L. 101-189, Sec. 1622(e)(3)(A), substituted “The term ‘license’ for “‘License’ in introductory provisions.

Subsec. (d)(2). Pub. L. 101-189, Sec. 1622(e)(3)(B), substituted “The term ‘health-care’ for “‘Health-care’”.

1986—Subsec. (d)(2). Pub. L. 99-661 realigned margin of par. (2) to conform to margin of par. (1).

Effective Date Of 1998 Amendment

Pub. L. 105-261, div. A, title VII, Sec. 734(c)(1), Oct. 17, 1998, 112 Stat. 2073, provided that: “The amendment made by subsection (a) [amending this section] shall take effect on October 1, 1999.”

Effective Date

Section 653(b) of Pub. L. 99-145 provided that: “Section 1094 of title 10, United States Code, as added by subsection (a), does not apply during the three-year period beginning on the date of the enactment of this Act [Nov. 8, 1985] with respect to the provision of health care by any person who on the date of the enactment of this Act is a member of the Armed Forces.”

TMA Version - March 2009

§ 1097. **Contracts for medical care for retirees,
dependents, and survivors: alternative delivery of
health care**

(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

10 USC Chapter 55 - Medical And Dental Care
§ 1097. Contracts for medical care for retirees, dependents, and survivors: alternative delivery of health care

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, 2011.

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; **Pub. L. 111-383, div. A, title VII, Sec. 701(a), Jan. 7, 2011, 124 Stat. 4244.**)

Amendments

2011—Subsec. (e). **Pub. L. 111-383 substituted “September 30, 2011” for “September 30, 2009”.**

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.”

§ 1110b. TRICARE program: extension of dependent coverage

(a) In General.—In accordance with subsection (c), an individual described in subsection (b) shall be deemed to be a dependent (as described in section 1072(2)(D) of this title) for purposes of coverage under the TRICARE program.

(b) Individual Described.—An individual described in this subsection is an individual who—

(1) would be a dependent under section 1072(2) of this title but for exceeding an age limit under such section;

(2) has not attained the age of 26;

(3) is not eligible to enroll in an eligible employer-sponsored plan (as defined in section 5000A(f)(2) of the Internal Revenue Code of 1986);

(4) is not otherwise a dependent of a member or a former member under any subparagraph of section 1072(2) of this title; and

(5) meets other criteria specified in regulations prescribed by the Secretary, similar to regulations prescribed by the Secretary of Health and Human Services under section 2714(b) of the Public Health Service Act.

(c) Premium.—(1) The Secretary shall prescribe by regulation a premium (or premiums) for coverage under the TRICARE program provided pursuant to this section to an individual described in subsection (b).

(2) The monthly amount of the premium in effect for a month for coverage under the TRICARE program pursuant to this section shall be the amount equal to the cost of such coverage that the Secretary determines on an appropriate actuarial basis.

(3) The Secretary shall prescribe the requirements and procedures applicable to the payment of premiums under this subsection.

(4) 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.

10 USC Chapter 55 - Medical And Dental Care
§ 1110b. TRICARE program: extension of dependent coverage

NOTES

Source

(Added Pub. L. 111-383, div. A, title VII, Sec. 702(a)(1), Jan. 7, 2011, 124 Stat. 4244.)

References In Text

Section 5000A of the Internal Revenue Code of 1986, referred to in subsec. (b)(3), is classified to section 5000A of Title 26, Internal Revenue Code. Section 2714 of the Public Health Service Act, referred to in subsec. (b)(5), is classified to section 300gg-14 of Title 42, The Public Health and Welfare.

Effective Date And Regulations

Pub. L. 111-383, div. A, title VII, Sec. 702(b), Jan. 7, 2011, 124 Stat. 4245, provided that: "The amendments made by this section [enacting this section] shall take effect on January 1, 2011. The Secretary of Defense shall prescribe an interim final rule with respect to such amendments, effective not later than January 1, 2011."

TMA Version - March 2009