Chapter 10 Section 7.1

Transitional Survivor Status And Survivor Status

Issue Date: September 28, 2006
Authority: 32 CFR 199.3, 10 USC 1079(g)(2)

1.0 DESCRIPTION

1.1 Eligible surviving family members whose sponsor died while on active duty for a period of more than 30 days may continue their TRICARE eligibility and their status is reflected as either Transitional Survivor or Survivor.

1.2 Transitional Survivor and Survivor are terms used to reflect the status of certain otherwise eligible TRICARE beneficiaries. The status determines the appropriate payment rate and benefit level used in claims processing. Transitional Survivor status reflects Active Duty Family Member (ADFM) payment rates and provisions. Survivor status reflects retiree payment rates.

1.3 TRICARE Eligibility rules have priority over the rules that apply to those in Transitional Survivor or Survivor status.

2.0 BACKGROUND

2.1 Family members of Active Duty Service Members (ADSMs) who died while on active duty have always been eligible for TRICARE; however, their payment rates/cost-sharing provisions have changed over time. Initially, their cost-sharing provisions were at the retiree payment rate for all care received.

2.2 Section 707(c) of the National Defense Authorization Act for Fiscal Year 1995 (NDAA FY 1995), PL 103-337 provided for two changes.

2.2.1 For dependents of active duty members who died while on active duty between January 1, 1993 and October 1, 1993, only care for pre-existing conditions was cost-shared at the active duty dependent payment rate.

2.2.2 Effective October 1, 1993, active duty dependent payment rate was limited to a one-year period.

2.3 Section 704 of the Floyd D. Spence NDAA FY 2001 created a three year period, beginning with the date of death, for health care to be cost-shared at the active duty dependent payment rate. After three years, survivors remained eligible for TRICARE, but at the retiree payment rate. This provision was effective October 30, 2000.

2.4 Section 715 of the NDAA for FY 2006, as codified in 10 USC 1079(g)(2), extended the transitional survivor status for the dependent children as outlined in paragraph 3.0. It made this benefit retroactive to October 7, 2001.

3.0 POLICY

3.1 Effective with respect to deaths occurring on or after October 7, 2001, Section 715 of the NDAA FY 2006, PL 109-163, extended the time frame that certain eligible dependents (children and unmarried persons) remain in Transitional Survivor status. See paragraph 3.2.

3.2 Time Frames for Transitional Survivor Status.

3.2.1 Spouse. Transitional Survivor status is retained for three years from the date of death of the sponsor. After three years, the surviving spouse converts to Survivor status and TRICARE benefits may continue at retiree payment rates and rules.

3.2.2 Children and Unmarried Persons (those defined in 10 United States Code (USC) 1072(2)(D) or (I)) whose sponsor died on or after October 7, 2001. Transitional survivor status ends at age 21 or 23 if 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 (subject to the eligibility limitations as described in the Note:).

3.2.3 Incapacitated Children and Incapacitated Unmarried Persons (those defined in 10 United States Code (USC) 1072(2)(D) or (I)) whose sponsor died on or after October 7, 2001. Transitional Survivor status (subject to the eligibility limitations as described in the Note:) is the greater of:

- Three years from the sponsor's date of death, **OR**
- The date on which such dependent attains 21 years of age, **OR**
- The date on which the dependent attains 23 years of age if 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.

Note: A status of Transitional Survivor or Survivor status does not impact eligibility rules. Loss of eligibility as a result of any condition which routinely results in loss of TRICARE eligibility such as reaching age limits, marriage, remarriage, etc. also results in loss of Transitional Survivor/Survivor status. Individuals are considered to be eligible for TRICARE if they are shown as eligible on the Defense Enrollment Eligibility Reporting System (DEERS). The DEERS record will indicate the dates of eligibility and the status.

3.3 Actions necessary due to retroactive implementation of 10 USC 1079(g)(2).

3.3.1 Status Conversion. Dependent children whose sponsor's death occurred on or after October 7, 2001, and who, upon implementation of this policy are:

3.3.1.1 In Transitional Survivor status shall remain in Transitional Survivor status in accordance with time frames found in paragraph 3.2. The Transitional Survivor's Health Care Plan (HCP) (e.g., Prime, Standard, etc.) shall continue until such time it is changed by the beneficiary.

3.3.1.2 In Survivor status shall have their Transitional Survivor status reinstated and shall remain in Transitional Survivor status in accordance with paragraph 3.2. The HCP (e.g., Prime, Standard, etc.) that the beneficiary was in as a Survivor shall continue to apply and will be carried over when the status is changed to Transitional Survivor until such time the beneficiary elects to choose another plan.

3.3.1.3 In Survivor status and who have since lost TRICARE eligibility shall have their Transitional Survivor status end date changed to the date they lost eligibility for TRICARE. The HCP (e.g., Prime, Standard, etc.) that the beneficiary was in as a Survivor shall also be applied to the period of Transitional Survivor status.

3.3.2 Refunds - General

3.3.2.1 The contractor shall process refunds of enrollment fees proactively.

3.3.2.2 The contractor shall reprocess claims either based on proactive contact with the beneficiary, upon the beneficiary's request, or when contacted by a beneficiary's parent or legal guardian.

3.3.2.3 The contractor shall confirm the beneficiary's mailing address before mailing any refunds.

3.3.2.4 A letter will be sent to beneficiaries affected by changes found in Section 715, NDAA FY 2006. The letter will advise them of the extended Transitional Survivor time frames and will direct them to contact the contractor for further information. Once contacted by the beneficiary or beneficiary's parent or legal guardian, the contractor shall assist the beneficiary with actions necessary in order to correctly reprocess claims in accordance with this policy.

3.3.3 Refunds - Enrollment Fees

3.3.3.1 Upon contact by a beneficiary, beneficiary's parent, or legal guardian or when the contractor initiates contact with those due a refund of enrollment fees, the contractor shall issue an enrollment fee refund for all individuals described in paragraphs 3.3.1.2 and 3.3.1.3.

3.3.3.2 Since the Prime Health Care Delivery Plan (HCDP) that the beneficiary was in during the Survivor status shall be carried over and applied during the Transitional Survivor status, refunds are necessary. Refunds shall be:

3.3.3.2.1 The difference between Prime enrollment fee for family versus Prime enrollment fee for individual (if a spouse was enrolled) or,

3.3.3.2.2 Refund of all applicable enrollment fees (if a spouse was not enrolled).

3.3.3.3 The contractor shall include a written explanation, with any applicable refund of enrollment fees.

3.3.4 Refunds - Claims

3.3.4.1 The contractor shall reprocess claims and issue refunds to the family for those individuals described in paragraphs 3.3.1.2 and 3.3.1.3. Since the HCDP (e.g., Prime, Standard, etc.) that the

beneficiary was in as a Survivor shall be carried over and applied during the Transitional Survivor status, refunds shall be the difference between any retiree payment rates the beneficiary may have paid and the active duty payment rates that now apply. For example, those Survivors who were in TRICARE Standard and had paid retiree cost-shares for covered care may now be entitled to refunds of the difference between Standard retiree cost-shares and active duty dependent cost-shares.

3.3.4.2 Waiver of timely filing. 32 CFR 199.7(d)(2)(i)(A) permits an exception for the timely filing waiver of claims in the event of retroactive eligibility. Consequently, timely filing waivers apply to those whose status is changed from Survivor to Transitional Survivor.

3.3.5 Refunds - PFPWD/ECHO

3.3.5.1 Upon request, contractors shall reprocess Survivor Basic Program claims that otherwise would have been processed as Program For Persons With Disabilities (PFPWD) claims had Transitional Survivor status been in effect at the time the benefit was received and will issue appropriate refunds.

3.3.5.2 Upon request, contractors shall reprocess denied Survivor Basic Program claims that otherwise would have been processed as PFPWD claims had Transitional Survivor status been in effect at the time the benefit was received and will issue appropriate refunds.

3.3.5.3 The contractor shall assist those Transitional Survivors who are otherwise eligible for the Extended Care Health Option (ECHO) to register in ECHO. Contractors will also reprocess claims for services or items that were previously denied and claims for services or items that were not previously submitted because the beneficiary was not eligible for ECHO due to his/her Survivor status at the time such services or items were received by the beneficiary.

3.3.5.4 For the purpose of paragraphs 3.3.5.1, 3.3.5.2, and 3.3.5.3 contractors shall waive the requirement for prior authorization of a PFPWD benefit and the requirement for the "Public Facility Use Certification." For the purpose of paragraph 3.3.5.3, contractors shall waive the ECHO requirement that the beneficiary demonstrate enrollment in the Exceptional Family Member Program (EFMP).

3.3.5.5 Claims processing under paragraphs 3.3.5.1, 3.3.5.2, and 3.3.5.3, shall be done in accordance with the claims adjustment policies in effect at the time the claim was originally processed. In no case will reprocessing result in a greater cost-share to the sponsor/beneficiary than what was determined when the claims were originally processed.

3.4 Prime Enrollment

3.4.1 Transitional Survivors shall retain eligibility to enroll in TRICARE Prime, TRICARE Prime Remote Active Duty Family Member (TPRADFM), and TRICARE Overseas Program (TOP) Prime at the ADFM payment rate and shall receive the ADFM health care benefit. For Overseas enrollments, see the TRICARE Operations Manual (TOM), Chapter 24, Section 5.

3.4.2 Survivors are eligible to enroll in TRICARE Prime at retiree payment rates. TPRADFM and TOP Prime are not available to Survivors and Survivors are covered by TRICARE Standard.

3.4.3 Prime enrollment rules and policies found in Section 2.1, Chapter 12, and TOM, Chapter 24 shall apply.

3.5 Benefits

3.5.1 Transitional Survivors receive the same TRICARE benefits that are available to ADFMs subject to any exclusions. This includes those TRICARE benefits that are restricted to ADFMs such as, but not limited to, hearing aids and eye examinations.

3.5.2 Survivors receive the same TRICARE benefits that are available to retirees.

3.6 ECHO

3.6.1 Transitional Survivors may register in the ECHO program subject to all ECHO rules and policies. See Chapter 9, Section 2.1 for further information on ECHO eligibility.

3.6.2 Survivors are excluded from the ECHO registration. This is because the ECHO is not available to retirees and Survivors are treated as retirees.

3.7 Payment Rates (e.g., catastrophic cap, cost-shares, copayments, deductibles, etc.)

3.7.1 Transitional Survivors. Payment rates are the same as ADFM payment rates for their respective HCP (Standard, Extra, Prime, TPRADFM, etc.). See the TOM, Chapter 24, Section 7, and the TRICARE Reimbursement Manual (TRM), Chapter 2, Sections 1 and 2.

3.7.2 Survivors. Payment rates are the same as retiree payment rates for their respective HCP (Standard, Extra, Prime, etc.). See the TOM, Chapter 24, Section 7 and the TRM, Chapter 2, Sections 1 and 2.

4.0 LIMITATION

TRICARE Dental Program (TDP) which has its own statutory provision regarding Transitional Survivors and is found at 10 USC 1076a(k). The TDP has a three year Transitional Survivor benefit.

5.0 EFFECTIVE DATE

With respect to deaths that occur on or after October 7, 2001.

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