

## Custodial Care Transitional Policy (CCTP)

Issue Date: June 11, 2002

Authority: 10 USC 1074 j(b)(4), 10 USC 1072 (8) and (9); [32 CFR 199.2](#)

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### 1.0 BACKGROUND

In Fiscal Year (FY) 2002, Congress changed the definition of custodial care (10 USC 1072 (8) - (9). Effective December 28, 2001, custodial care is no longer defined by the condition of the patient but by the type of services being rendered. This transitional policy provides TRICARE coverage of medically necessary skilled services to eligible beneficiaries and will remain in effect as indicated herein.

### 2.0 DEFINITION

**2.1** Custodial care. Prior to December 28, 2001, the term "custodial care" means care rendered to a patient:

**2.1.1** Who is disabled mentally or physically and such disability is expected to continue and be prolonged, and

**2.1.2** Who requires a protected, monitored, or controlled environment whether in an institution or in the home, and

**2.1.3** Who requires assistance to support the essentials of daily living, and

**2.1.4** Who is not under active and specific medical, surgical, or psychiatric treatment that will reduce the disability to the extent necessary to enable the patient to function outside the protected, monitored, or controlled environment.

**2.2** Custodial care. Effective December 28, 2001, the term "custodial care" means treatment or services, regardless of who recommends such treatment or services or where such treatment or services are provided, that:

- Can be rendered safely and reasonably by a person who is not medically skilled; or
- Is/are designed mainly to help the patient with the Activities Of Daily Living (ADL).

**2.3** ADL. Care that consists of providing food (including special diets), clothing, and shelter; personal hygiene services; observation and general monitoring; bowel training or management (unless abnormalities in bowel function are of a severity to result in a need for medical or surgical intervention in the absence of skilled services); safety precautions; general preventive procedures (such as turning to prevent bedsores); passive exercise; companionship; recreation; transportation;

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and such other elements of personal care that reasonably can be performed by an untrained adult with minimal instruction or supervision. ADL may also be referred to as “essentials of daily living”.

#### 2.4 Eligible beneficiaries.

**2.4.1** Active Duty Family Members (ADFM)s who are receiving medically necessary services through the Custodial Care Transitional Policy (CCTP) at the start of health care delivery under the new contracts.

**Note:** Beneficiaries described above whose sponsor retires from active duty will remain eligible for the CCTP as Non-Active Duty Family Members (NADFM)s described in [paragraph 2.4.2](#).

**2.4.2** NADFM)s who are receiving medically necessary services through the CCTP at the start of health care delivery under the new TRICARE Managed Care Support (MCS) contracts.

**Note:** Beneficiaries described in [paragraphs 2.4.1](#) and [2.4.2](#) whose sponsor retires from active duty will remain eligible for the CCTP as a NADFM)s.

**Note:** Beneficiaries described in [paragraphs 2.4.1](#) and [2.4.2](#) who become a Transitional Survivor or a Survivor, as those terms are used in [Chapter 10, Section 7.1](#), are eligible for the CCTP.

### 3.0 POLICY

CCTP benefits are payable for eligible beneficiaries who meet the custodial care definition under [paragraph 2.1](#) and who require in-home medically necessary skilled services beyond what is provided by the HHA PPS specified in the TRICARE Reimbursement Manual (TRM), [Chapter 12](#), or the Extended Care Health Option (ECHO) Home Health Care (EHC) benefit specified in [Chapter 9, Section 15.1](#).

### 4.0 POLICY CONSIDERATIONS

**4.1** Upon the contractor’s determination that an ADFM meets the eligibility requirements stated in [paragraph 2.4](#), or the “Notes” therein, the contractor shall submit a “custodial care determination letter” for concurrence by the TRICARE Chief Medical Officer (CMO) or designee. The letter may be sent by facsimile to (703) 681-4503 or (703) 681-1242].

**4.2** The custodial care determination letter must include a concurrence line for the TRICARE CMO or designee and demonstrate that the beneficiary:

**4.2.1** Is disabled mentally or physically and that such disability(ies) is(are) expected to continue and be prolonged;

**4.2.2** Requires a protected, monitored or controlled environment;

**4.2.3** Requires assistance to support the ADL, and

**4.2.4** Is not undergoing a plan of care which includes specific medical, surgical or psychiatric treatment that will reduce the disability(ies) to the extent necessary to enable the patient to function outside the protected, monitored or controlled environment.

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**Note:** A program of physical and mental rehabilitation which is designed to reduce a disability is not custodial care as long as the objective of the program is a reduced level of care.

**4.3** Upon completion of his/her review, the TRICARE CMO or designee will return the custodial care determination letter to the MCS Contractor (MCSC), generally by fax within one (1) business day of receipt of the letter, indicating concurrence or non-concurrence with the MCSC's determination that the beneficiary meets the custodial care definition under [paragraph 2.1](#).

**4.4** ADFMs who move between annual assessments will be assessed by the receiving contractor for determination of whether the EHC benefit can meet the beneficiary's needs.

**4.5** For ADFMs who remain in the CCTP, the contractor's annual assessment shall include a determination that the fiscal year financial cap established in accordance with [Chapter 9, Section 15.1](#) will not support the level of care required.

**4.6** CCTP claims are to be paid as non-underwritten health care and should be reported as such. TED records for these claims must reflect both special processing codes "CT" and "W".

**Note:** The purpose of the custodial care determination letter is only to obtain the concurrence of the TRICARE CMO, or designee, that the beneficiary meets the definition of custodial care as stated under [paragraph 2.1](#). The MCSC remains responsible for determining the medical necessity of the requested skilled services.

**4.7** The TRICARE CMO's or designee's decision regarding the custodial care determination is transferable between Health Service Regions, that is, the "receiving" MCSC will accept the current decision of the TRICARE CMO or designee and proceed to process claims accordingly.

**4.8** The beneficiary will not be issued a custodial care determination.

**4.9** The TRICARE CMO's or designee's decision not to concur with the MCSC's determination that the beneficiary meets the definition of custodial care under [paragraph 2.1](#) may not be appealed.

**4.10** When the TRICARE CMO or designee does not concur with the custodial care determination, the MCSC is responsible for all medically necessary services in accordance with the current MCS contracts.

**4.11** Appeal rights will be offered to the beneficiary for any denied skilled service.

## **5.0 EXCLUSIONS**

**5.1** Custodial care is not a TRICARE benefit.

**5.2** Beneficiaries who were receiving benefits under the ICMP-PEC as of December 27, 2001, and those grandfathered under the former HHC/case management demonstration project will continue to receive those services as grandfathered members of those programs, and will not be considered for the CCTP.

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**6.0 EFFECTIVE DATE**

December 28, 2001.

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