

be ineligible for later payment if the Program Trigger is reached.

### III. Procedural Requirements

*Executive Order 12866, "Regulatory Planning and Review"*

This final rule is a significant regulatory action and has been reviewed by the Office of Management and Budget under the terms of Executive Order 12866.

#### *Regulatory Flexibility Act*

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, it is hereby certified that the final rule will not have a significant economic impact on a substantial number of small entities. The final rule implements changes prescribed or authorized by the Extension Act. The Act itself requires all insurers receiving direct earned premium for any type of property and casualty insurance, as defined in the Extension Act, to participate in the Program. This includes all insurers regardless of size or sophistication. The Extension Act also defines property and casualty insurance to mean commercial lines of insurance without any reference to size or scope of the insurer or the insured. The disclosure and "make available" requirements are required by the Act. The rule allows all insurers, whether large or small, to use existing systems and business practices to demonstrate compliance. Treasury is required to pay the Federal share of compensation to insurers for insured losses subject to the new Program Trigger provisions in the Act. The requirement that insurers seek advance approval of certain settlements is now required by the Act. Any economic impact associated with the final rule flows from the Extension Act and not the final rule. However, the Act and the Program are intended to provide benefits to the U.S. economy and all businesses, including small businesses, by providing a federal reinsurance backstop to commercial property and casualty insurance policyholders and spreading the risk of insured losses resulting from an act of terrorism. Accordingly, a regulatory flexibility analysis is not required.

#### List of Subjects in 31 CFR Part 50

Terrorism risk insurance.

#### Authority and Issuance

■ For the reasons set forth above, the interim final rule revising subparts A, B, C, F, and I of 31 CFR part 50, which was published at 71 FR 27564 on May 11, 2006, is adopted as a final rule without change.

Dated: August 9, 2006.

**Emil W. Henry, Jr.,**

*Assistant Secretary of the Treasury.*

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## DEPARTMENT OF DEFENSE

### Office of the Secretary

[DoD-2006-OS-0182; 0720-AA97]

#### 32 CFR Part 199

### TRICARE Program; TRICARE Prime Remote for Active Duty Family Members and TRICARE Prime Enrollment Period

**AGENCY:** Office of the Secretary, DoD.

**ACTION:** Final rule.

**SUMMARY:** This final rule implements 10 U.S.C. 1079(p), as added by section 722(b) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001. The rule provides coverage for medical care for active duty family members who reside with an active duty member of the Uniformed Services assigned to remote areas and eligible for the program known as TRICARE Prime Remote. Active duty family members who enroll in TRICARE Prime Remote for Active Duty Family Members (TPRADFM) will enjoy benefits generally comparable to TRICARE Prime enrollees including access standards, benefit coverage, and cost-shares.

This final rule also implements Section 702 of the NDAA for FY 2003, which establishes circumstances under which dependents of Reserve Components and National Guard members called to active duty in support of contingency operations may enroll in TRICARE Prime Remote for Active Duty Family Members, and dependents of TRICARE Prime Remote service members may remain enrolled when the service member receives orders for an unaccompanied follow-on assignment.

Finally, this final rule establishes circumstances under which eligible beneficiaries may enroll in TRICARE Prime for a period of less than 1 year.

**DATES:** *Effective Date:* This rule is effective October 24, 2006.

**ADDRESSES:** TRICARE Management Activity (TMA), Program Requirements Division, 16401 East Centretech Parkway, Aurora, CO 80011-9066.

**FOR FURTHER INFORMATION CONTACT:** John J.M. Leininger, Program Requirements Division, TMA, (303) 676-3613 for questions on the TPRADFM portion of this rule. Ann Fazzini, Medical Benefits

and Reimbursement Systems, TMA, (303) 676-3803 for questions on the TRICARE Prime Enrollment Period portion of this rule.

#### SUPPLEMENTARY INFORMATION:

#### I. Summary of Final Rule Provisions

On October 30, 2000, the Floyd D. Spence National Defense Authorization Act (NDAA) for Fiscal Year 2001, Public Law 106-398 was signed into law. This final rule implements section 722(b) of this Act, which amended section 1079 of Title 10, United States Code, by adding subsection (p). It requires a TRICARE Prime-like benefit for active duty family members residing with their active duty Uniformed Services sponsor eligible for TRICARE Prime Remote, as defined by section 1074(c)(3) of Title 10, United States Code. The reader should refer to the interim final rule that was published on February 6, 2002 (67 FR 5477).

This final rule implements Section 702 of the NDAA for FY 2003, which amended section 1079 of Title 10, United States Code, by adding subsection (3) to subsection (p) which establishes circumstances under which dependents of Reserve Components and National Guard members called to active duty in support of contingency operations may enroll in TRICARE Prime Remote for Active Duty Family Members, and dependents of TRICARE Prime Remote service members may remain enrolled when the service member receives orders for an unaccompanied follow-on assignment. The reader should refer to the interim final rule that was published on July 31, 2003 [68 FR 44882] and was effective September 29, 2003.

This final rule also establishes circumstances under which eligible beneficiaries may enroll in TRICARE Prime for a period of less than one year. Enrollment in TRICARE Prime normally must be for a period of one year. Section 199.17(v), provides for the establishment of administrative requirements and procedures to ensure reasonable implementation and operation of the TRICARE program. Under this authority, an exception to the one-year enrollment requirement has been provided for Reservists and members of the National Guard who are called or ordered to active duty for a period of 179 days or more. A second exception has been established for those beneficiaries who are eligible to enroll in Prime but have less than one year of TRICARE eligibility remaining. For example, the dependents of an active duty member may enroll in Prime even though the member has less than one year of active duty remaining, and the

member will not be eligible for retirement at the end of the member's active duty service. Refer to the interim final rule that was published on July 31, 2003, (68 FR 44882) and was effective September 29, 2003, for more detailed information regarding this change.

**II. Public Comments**

We provided a 60-day comment period on the interim final rules. We received no public comments on any of the provisions cited in this rule.

**III. Changes in the Final Rule**

The only change made to the final rule from the interim final rule was in 199.16 (e)(3) Enrollment. For clarity, we changed "If an eligible active duty member does not enroll in the TRICARE Prime Remote program" to "Until the active duty service member enrolls in the TRICARE Prime Remote program".

**IV. Regulatory Procedures**

Executive Order 12866 requires that a regulatory impact analysis be performed on any economically significant rule. An economically significant rule is defined as one that would result in the annual effect on the national economy of \$100 million or more, or have other substantial impact. The Regulatory Flexibility Act (RFA) requires that each Federal Agency prepare, and make available for public comment, a regulatory flexibility analysis when the agency issues regulations which would have a significant impact on a substantial number of small entities.

This final rule is not a major rule under the Congressional Review Act, because its economic impact will be less than \$100 million. The changes set forth in this final rule are revisions to existing regulation. The changes made in this final rule involve an expansion of TRICARE benefits. In addition, this final rule will have minor impact and will not significantly affect a substantial number of small entities. In light of the above, no regulatory impact analysis is required.

This final rule will not impose additional information collection requirements on the public under the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 55).

**List of Subjects in 32 CFR Part 199**

Claims, Dental health, Health care, Health insurance, Individuals with disabilities, Military personnel.

■ Accordingly, 32 CFR part 199 is amended as follows:

**PART 199—[AMENDED]**

■ 1. The authority citation for part 199 continues to read as follows:

**Authority:** 5 U.S.C. 301; 10 U.S.C. Chapter 55.

■ 2. Section 199.16 is amended by revising paragraphs (d) introductory text and (d)(2), to read as follows:

**§ 199.16 Supplemental Health Care Program for active duty members.**

\* \* \* \* \*

(d) Special rules and procedure. As exceptions to the general rule in paragraph (c) of this section, the special rules and procedures in this section shall govern payment and administration of claims under the supplemental care program. These special rules and procedures are subject to the TRICARE Prime Remote program for active duty service members set forth in paragraph (e) of this section and the waiver authority of paragraph (f) of this section.

\* \* \* \* \*

(2) Preauthorization by the Uniformed Services of each service is required for the supplemental care program except for services in cases of medical emergency (for which the definition in Sec. 199.2 shall apply) or in cases governed by the TRICARE Prime Remote program for active duty service members set forth in paragraph (e) of this section. It is the responsibility of the active duty members to obtain preauthorization for each service. With respect to each emergency inpatient admission, after such time as the emergency condition is addressed, authorization for any proposed continued stay must be obtained within two working days of admission.

\* \* \* \* \*

■ 3. Section 199.17 is amended by revising paragraphs (g) and (o)(2) to read as follows:

**§ 199.17 TRICARE program.**

\* \* \* \* \*

(g) TRICARE Prime Remote for Active Duty Family Members. (1) In general. In geographic areas in which TRICARE Prime is not offered and in which eligible family members reside, there is offered under 10 U.S.C. 1079(p) TRICARE Prime Remote for Active Duty Family Members as an enrollment option. TRICARE Prime Remote for Active Duty Family Members (TPRADFM) will generally follow the rules and procedures of TRICARE Prime, except as provided in this paragraph (g) and otherwise except to the extent the Director, TRICARE Management Activity determines them to be infeasible because of the remote area.

(2) Active duty family member. For purposes of this paragraph (g), the term

"active duty family member" means one of the following dependents of an active duty member of the Uniformed Services: Spouse, child, or unmarried child placed in the legal custody of the active duty member as a result of an order of a court of competent jurisdiction for a period of at least 12 consecutive months.

(3) Eligibility.

(i) An active duty family member is eligible for TRICARE Prime Remote for Active Duty Family Members if he or she is eligible for CHAMPUS, and, on or after December 2, 2003 meets the criteria of either (g)(3)(i)(A) and (B), or (g)(3)(i)(C):

(A) The family member's active duty sponsor has been assigned permanent duty as a recruiter; as an instructor at an educational institution, an administrator of a program, or to provide administrative services in support of a program of instruction for the Reserve Officers' Training Corps; as a full-time adviser to a unit of a reserve component; or any other permanent duty designated by the Director, TRICARE Management Activity that the Director determines is more than 50 miles, or approximately one hour driving time, from the nearest military treatment facility that is adequate to provide care.

(B) The family members and active duty sponsor, pursuant to the assignment of duty described in paragraph (g)(3)(i)(A) of this section, reside at a location designated by the Director, TRICARE Management Activity, that the Director determines is more than 50 miles, or approximately one hour driving time, from the nearest military medical treatment facility adequate to provide care.

(C) The family member, having resided together with the active duty sponsor while the sponsor served in an assignment described in (g)(3)(i)(A), continues to reside at the same location after the sponsor relocates without the family member pursuant to orders for a permanent change of duty station, and the orders do not authorize dependents to accompany the sponsor to the new duty station at the expense of the United States.

(ii) A family member who is a dependent of a reserve component member is eligible for TRICARE Prime Remote for Active Duty Family Members if he or she is eligible for CHAMPUS and meets all of the following additional criteria:

(A) The reserve component member has been ordered to active duty for a period of more than 30 days.

(B) The family member resides with the member.

(C) The Director, TRICARE Management Activity, determines the residence of the reserve component member is more than 50 miles, or approximately one hour driving time, from the nearest military medical treatment facility that is adequate to provide care.

(D) "Resides with" is defined as the TRICARE Prime Remote residence address at which the family resides with the activated reservist upon activation.

(4) Enrollment. TRICARE Prime Remote for Active Duty Family Members requires enrollment under procedures set forth in paragraph (o) of this section or as otherwise established by the Executive Director, TRICARE Management Activity.

(5) Health care management requirements under TRICARE Prime Remote for Active Duty Family Members. The additional health care management requirements applicable to Prime enrollees under paragraph (n) of this section are applicable under TRICARE Prime Remote for Active Duty Family Members unless the Executive Director, TRICARE Management Activity determines they are infeasible because of the particular remote location. Enrollees will be given notice of the applicable management requirements in their remote location.

(6) Cost sharing. Beneficiary cost sharing requirements under TRICARE Prime Remote for Active Duty Family Members are the same as those under TRICARE Prime under paragraph (m) of this section, except that the higher point-of-service option cost sharing and deductible shall not apply to routine primary health care services in cases in which, because of the remote location, the beneficiary is not assigned a primary care manager or the Executive Director, TRICARE Management Activity determines that care from a TRICARE network provider is not available within the TRICARE access standards under paragraph (p)(5) of this section. The higher point-of-service option cost sharing and deductible shall apply to specialty health care services received by any TRICARE Prime Remote for Active Duty Family Members enrollee unless an appropriate referral/preauthorization is obtained as required by section (n) under TRICARE Prime. In the case of pharmacy services under Sec. 199.21, where the Director, TRICARE Management Activity determines that no TRICARE network retail pharmacy has been established within a reasonable distance of the residence of the TRICARE Prime Remote for Active Duty Family Members enrollee, cost sharing applicable to TRICARE network retail pharmacies

will be applicable to all CHAMPUS eligible pharmacies in the remote area.

\* \* \* \* \*

(o) \* \* \*

(1) \* \* \*

(2) Enrollment period.

(i) Beneficiaries who select the TRICARE Prime option or the TRICARE Prime Remote for Active Duty Family Members option remain enrolled for 12 month increments until: They take action to disenroll; they are no longer eligible for enrollment in TRICARE Prime or TRICARE Prime Remote for Active Duty Family Members; or they are disenrolled for failure to pay required enrollment fees. For those who remain eligible for TRICARE Prime enrollment, no later than 15 days before the expiration date of an enrollment, the sponsor will be sent a written notification of the pending expiration and renewal of the TRICARE Prime enrollment. TRICARE Prime enrollments shall be automatically renewed upon the expiration of the enrollment unless the renewal is declined by the sponsor. Termination of enrollment for failure to pay enrollment fees is addressed in paragraph (o)(3) of this section.

(ii) Exceptions to the 12-month enrollment period.

(A) Beneficiaries who are eligible to enroll in TRICARE Prime but have less than one year of TRICARE eligibility remaining.

(B) The dependents of a Reservist who is called or ordered to active duty or of a member of the National Guard who is called or ordered to full-time federal National Guard duty for a period of more than 30 days.

\* \* \* \* \*

Dated: August 15, 2006.

**L. M. Bynum,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 117

[CGD05-06-087]

RIN 1625-AA09

#### Drawbridge Operation Regulations; Potomac River, Between Maryland and Virginia

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of temporary deviation from regulations.

**SUMMARY:** The Commander, Fifth Coast Guard District, has approved a temporary deviation from the regulations governing the operation of the new Woodrow Wilson Memorial (I-95) Bridge, mile 103.8, across Potomac River between Alexandria, Virginia and Oxon Hill, Maryland. This deviation allows the new drawbridge to remain closed-to-navigation each day from 10 A.M. to 2 P.M. beginning on August 26, 2006 until and including October 24, 2006, to facilitate completion of the Outer Loop portion for the new Woodrow Wilson Bridge construction project.

**DATES:** This deviation is effective from 10 a.m. on August 26, 2006, until 2 p.m. on October 24, 2006.

**ADDRESSES:** Materials referred to in this document are available for inspection or copying at Commander (dpb), Fifth Coast Guard District, Federal Building, 1st Floor, 431 Crawford Street, Portsmouth, VA 23704-5004 between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays. The telephone number is (757) 398-6222. Commander (dqb), Fifth Coast Guard District maintains the public docket for this temporary deviation.

**FOR FURTHER INFORMATION CONTACT:**

Waverly W. Gregory, Jr., Bridge Administrator, Fifth Coast Guard District, at (757) 398-6222.

**SUPPLEMENTARY INFORMATION:** In June 2006, the southernmost portion of the bascule spans for the new Woodrow Wilson Memorial Bridge, at mile 103.8, across Potomac River between Alexandria, Virginia and Oxon Hill, Maryland was publicly placed into service, switching I-95 Northbound traffic onto the new Outer Loop portion of the bridge. The newly-constructed portion of bridge will be required to open for vessels in accordance with the current drawbridge operating regulations set out in 33 CFR 117.255(c).

While the drawbridge is operational, coordinators for the construction of the new Woodrow Wilson Bridge Project indicated that the bascule span s not yet fully commissioned and the work continues through the rigorous testing phase. Opening the new bascule span for a vessel at this time would take approximately 45 minutes in a best case scenario. This has the potential to have a significant impact upon I-95 traffic, especially during the 10 a.m. to 2 p.m. bridge-opening time frame currently available for commercial vessels, in accordance with 33 CFR 117.255(c).