Defense has conducted a demonstration program in the State of Alaska since implementation of the TRICARE program under which certain exceptions have been made for administration of the program in Alaska. This rule proposes to incorporate those demonstration exceptions as permanent changes to the administration of the TRICARE program in Alaska. This rule proposes no change to the TRICARE benefit or to those who are eligible for it. However, the rule does eliminate the financial underwriting of health care costs in the State of Alaska by a TRICARE contractor. In addition, TRICARE Prime may be limited to those eligible beneficiaries enrolled to a military treatment facility and those eligible for TRICARE Prime Remote. The demonstration has supported the effectiveness to impose on a TRICARE program over which the contractor has no control. In addition, implementation of the TRICARE program in Alaska has limited TRICARE Prime to those eligible beneficiaries enrolled at a military treatment facility (MTF) and those eligible for TRICARE Prime Remote. The demonstration is scheduled to end on March 31, 2009. This rule will make permanent those aspects of the demonstration which the Department of Defense found to be best in the delivery of health care in Alaska. However, in order to ensure continuity of health care services in Alaska during the transition to the competitively awarded follow-on TRICARE contract, the demonstration may be extended until the later of the start of health care delivery under the new contract or until this rule becomes final.

II. Regulatory Procedures

Executive Order 12866, “Regulatory Planning and Review”

Section 801 of title 5, United States Code (U.S.C.) and Executive Order (E.O.) 12866 require certain regulatory assessments and procedures for any major rule or significant regulatory action, defined as one that would result in an annual effect of $100 million or more on the national economy or which would have other substantial impacts. It has been certified that this rule is not an economically significant rule, however, it is a regulatory action which has been reviewed by the Office of Management and Budget as required under the provisions of E.O. 12866.

Sec. 202, Public Law, 104–4, “Unfunded Mandates Reform Act”

It has been certified that this rule does not contain a Federal mandate that may result in the expenditure by State, local and Tribal governments, in aggregate, or by the private sector, of $100 million or more in any one year.


The Regulatory Flexibility Act (RFA) requires each Federal agency prepare and make available for public comment, a regulatory flexibility analysis when the agency issues a regulation which would have a significant impact on a substantial number of small entities. This rule is not an economically significant regulatory action and will not have a significant impact on a substantial number of small entities for purposes of the RFA. Thus, this proposed rule is not subject to any of these requirements.
This rule will not impose additional reporting or recordkeeping requirements under the Paperwork Reduction Act of 1995.

Executive Order 13132, "Federalism"

We have examined the impact of the rule under Executive Order 13132, and it does not have policies that have federalism implications that would have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, consultation with State and local officials is not required.

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 proposed to be amended as follows:

PART 199—CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS)

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


2. Section 199.17 is amended by revising the second sentence of paragraph (a)(3), redesignating the current paragraph (v) as (w), and by adding a new paragraph (v) to read as follows:

§ 199.17 TRICARE Program

(a) * * * * * 

(3) * * * * * Its geographical applicability is to all 50 States (except as modified for the State of Alaska under paragraph (v) of this section) and the District of Columbia. * * * *

* * * * * 

(v) Administration of the TRICARE program in the State of Alaska. In view of the unique geographical and environmental characteristics impacting the delivery of health care in the State of Alaska, administration of the TRICARE program in the State of Alaska will not include financial underwriting of the delivery of health care by a TRICARE contractor. In addition, the Assistant Secretary of Defense (Health Affairs) may limit the availability of TRICARE Prime in the State of Alaska to those eligible beneficiaries enrolled to a military treatment facility (MTF) and to those eligible beneficiaries under TRICARE Prime Remote. All other provisions of this section shall apply to administration of the TRICARE program in the State of Alaska as they apply to the other 49 States and the District of Columbia.

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Dated: November 19, 2009.

Patricia L. Toppings,
OSD Federal Register Liaison Officer,
Department of Defense

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