

the national government and the States, or on the distribution of power and responsibilities among the various levels of government. It has been certified that this proposed rule does not have federalism implications, as set forth in Executive Order 13132.

**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—[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 199.3 is amended by adding two new paragraphs (e)(1)(v) and (e)(1)(vi) to read as follows:

**§ 199.3 Eligibility.**

\* \* \* \* \*

- (e) \* \* \*
(1) \* \* \*

(v) A member who receives a sole survivorship discharge (as defined in section 1174(i) of title 10, United States Code).

(vi) A member who is separated from active duty who agrees newly to become a member of the Selected Reserve of the Ready Reserve of a reserve component.

\* \* \* \* \*

Dated: November 19, 2009.

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

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**DEPARTMENT OF DEFENSE**

**Office of the Secretary**

[DoD-2008-HA-0123; RIN 0720-AB29]

**32 CFR Part 199**

**TRICARE; TRICARE Delivery of Health Care in Alaska**

**AGENCY:** Office of the Secretary, Department of Defense.

**ACTION:** Proposed rule.

**SUMMARY:** TRICARE has recognized the unique circumstances existing in Alaska which make the provision of medical care to TRICARE beneficiaries through the TRICARE program operated in the other 49 States unrealistic. Recognizing these unique conditions and circumstances, the Department of Defense has conducted a demonstration

project 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.

**DATES:** Written comments received at the address indicated below by January 26, 2010 will be accepted.

**ADDRESSES:** You may submit comments, identified by docket number and/or Regulatory Information Number (RIN) number and title, by either of the following methods:

- Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.
• Mail: Federal Docket Management System Office, 1160 Defense Pentagon, Washington, DC 20301-1160.

**Instructions:** All submissions received must include the agency name and docket number or RIN for this Federal Register document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at http://www.regulations.gov as they are received without change, including any personal identifiers or contact information.

**FOR FURTHER INFORMATION CONTACT:** Mr. Michael O'Bar, TRICARE Management Activity, TRICARE Policy and Operations Directorate, telephone (703) 681-0039.

**SUPPLEMENTARY INFORMATION:**

**I. Introduction and Background**

In recognition of the unique geographical and environmental characteristics of the State of Alaska, the Department of Defense has conducted a demonstration project which tested the viability of implementing the TRICARE program differently in Alaska (see Federal Register, Tuesday, May 18, 2004, 69 FR 28124-28125). To date that demonstration has supported the impracticability and lack of cost effectiveness to impose on a TRICARE contractor the financial underwriting of the delivery of health care resulting from costs associated with the 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.

Public Law 96-354, "Regulatory Flexibility Act" (5 U.S.C. 601)

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.

*Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3511)*

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:

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

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.

\* \* \* \* \*

Dated: November 19, 2009.

**Patricia L. Toppings,**

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

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**DEPARTMENT OF DEFENSE****Office of the Secretary**

[DoD–2009–HA–0068; RIN 0720–AB30]

**32 CFR Part 199****TRICARE; Continued Health Care Benefit Program Expansion**

**AGENCY:** Department of Defense.

**ACTION:** Proposed rule.

**SUMMARY:** This proposed rule executes the expansion of section 1078a of title 10, United States Code. With the recent expansions of the Military Health System (MHS) coverage, particularly with the Reserve Component members, some MHS beneficiaries would not be eligible for CHCBP under certain circumstances that terminate their MHS coverage. This provision allows the Secretary to establish CHCBP eligibility for any categories of MHS beneficiaries who otherwise would lose MHS coverage with no continued care eligibility. This proposed rule also includes administrative changes providing clarification on some issues and updates the final rule published in the **Federal Register** on September 30, 1994, (59 FR 49817).

**DATES:** Comments must be received on or before January 26, 2010.

**ADDRESSES:** You may submit comments, identified by docket number and/or RIN number and title, by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *Mail:* Federal Docket Management System Office, 1160 Defense Pentagon, Washington, DC 20301–1160.

**Instructions:** All submissions received must include the agency name and docket number or Regulatory Information Number (RIN) for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available

for public viewing on the Internet at <http://www.regulations.gov> as they are received without change, including any personal identifiers or contact information.

**FOR FURTHER INFORMATION CONTACT:**

Kathleen Larkin, 703–681–0039.

**SUPPLEMENTARY INFORMATION:****I. Introduction and Background**

Section 713 of the National Defense Authorization Act (NDAA) for Fiscal Year 2004 authorized coverage for uniformed services rather than armed services. Section 705 of the NDAA for Fiscal Year 2008 authorizes the expansion of persons eligible for the Continued Health Care Benefit Program (CHCBP) under Title 10 of the United States Code, section 1078a. CHCBP is the program that provides continued healthcare coverage for MHS beneficiaries who lose their MHS eligibility. It is modeled after private sector “COBRA Coverage,” with the individual paying 100% of the program cost plus an amount to cover administrative expenses. Currently, CHCBP provides coverage for certain active duty (AD) service members and their family members; however, it does not provide coverage for Reserve Component (RC) members who have not been on Active Duty (AD) within the last 18 months. Furthermore, coverage under CHCBP is only authorized for 18 months from either separation from AD or when coverage under the Transitional Assistance Management Program (TAMP) (10 U.S.C. 1145) ends. Selected RC members losing coverage under TRS do not receive the same extent of coverage under CHCBP as either qualified AD members or their family members.

The change to 10 U.S.C. 1078a expands CHCBP to include qualified Reservists. For members of the Selected Reserves, coverage under CHCBP would run for 18 months after the date the member ceases to be entitled to care under 10 U.S.C. 1076d. In the case of all other persons, the coverage period is 36 months after the date on which the person first ceases to be covered under the military health benefits plan or transitional health care coverage.

**Administrative Changes**

CHCBP was directed by Congress in section 4408 of the National Defense Authorization Act of Fiscal Year 1993, Public Law 102–484, which amended titles 10 U.S.C., by adding section 1078a. The Department of Defense (DoD) published a final rule regarding CHCBP in the **Federal Register** on September 30, 1994, (59 FR 49817).