

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 199.4 is amended by revising paragraph (c)(3)(x)(A) to read as follows:

§ 199.4 Basic program benefits.

* * * * *

- (c) * * *
- (3) * * *
- (x) * * *

(A) The services are prescribed and monitored by a physician, certified physician assistant or certified nurse practitioner.

* * * * *

■ 3. Section 199.6 is amended by revising paragraph (c)(3)(iii)(K) to read as follows:

§ 199.6 TRICARE-authorized providers.

* * * * *

- (c) * * *
- (3) * * *
- (iii) * * *

(K) *Other individual paramedical providers.* (1) The services of the following individual professional providers of care to be considered for benefits on a fee-for-service basis may be provided only if the beneficiary is referred by a physician for the treatment of a medically diagnosed condition and a physician must also provide continuing and ongoing oversight and supervision of the program or episode of treatment provided by these individual paramedical providers.

- (i) Licensed registered nurses.
- (ii) Audiologists.

(2) The services of the following individual professional providers of care to be considered for benefits on a fee-for-service basis may be provided only if the beneficiary is referred by a physician, a certified physician assistant or certified nurse practitioner and a physician, a certified physician assistant, or certified nurse practitioner must also provide continuing and ongoing oversight and supervision of the program or episode of treatment provided by these individual paramedical providers.

- (i) Licensed registered physical therapist and occupational therapist.
- (ii) Licensed registered speech therapists (speech pathologists).

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Dated: August 10, 2010.

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

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DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 199

[Docket ID: DOD-2009-HA-0096]

RIN 0720-AB34

TRICARE: Transitional Assistance Management Program (TAMP)

AGENCY: Office of the Secretary, Department of Defense.

ACTION: Final rule.

SUMMARY: The Department of Defense is publishing this final rule to implement section 4 of the Hubbard Act and section 734 of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009. These Acts provide two new categories of beneficiaries for the Transitional Assistance Management Program (TAMP). Specifically, a member who receives a sole survivorship discharge and a member who is separated from Active Duty who agrees to become a member of the Selected Reserve of the Ready Reserve of a reserve component are eligible for TAMP.

DATES: Effective Date: This rule is effective September 17, 2010.

FOR FURTHER INFORMATION CONTACT: Mr. Glenn J. Corn, TRICARE Management Activity, Medical Benefits and Reimbursement Branch, telephone (303) 676-3566. Questions regarding payment of specific claims should be addressed to the appropriate TRICARE contractor.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of November 27, 2009, (74 FR 62269), the Office of the Secretary of Defense published for public comment a proposed rule establishing two new eligibility categories under TAMP. The TAMP benefit provides continued TRICARE coverage for a period of 180 days. For those who qualify, the 180 day time frame begins upon the Active Duty member's separation.

II. Explanation of Provisions

Public Law 110-317 amended section 1145(a)(2) of title 10, U.S.C. by adding "a member who receives a sole survivorship discharge (as defined in section 1174(i) of this title)" as an additional category of TAMP eligible. The provision is effective August 29, 2008.

Public Law 110-471 amended section 1145(a)(2) of title 10, U.S.C. by adding "A member who is separated from Active Duty who agrees to become a

member of the Selected Reserve of the Ready Reserve of a reserve component." This provision is effective October 14, 2008.

This final rule establishes these two new eligibility categories under TAMP.

III. Public Comments

We provided a 60-day public comment period following publication of the Proposed Rule in the **Federal Register** (74 FR 62269) on November 27, 2009. No comments were received.

IV. 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.

Section 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 will not significantly affect a substantial number of small entities for purposes of the RFA.

Public Law 96-511, "Paperwork Reduction Act" (44 U.S.C. Chapter 35)

This rule will not impose significant additional information collection requirements on the public under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3511). Existing information collection requirements of the TRICARE and Medicare programs will be utilized.

Executive Order 13132, "Federalism"

This rule has been examined for its impact under E.O. 13132 and does not contain 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 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 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 this title).

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

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Dated: August 10, 2010.

Patricia L. Toppings,

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

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DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 199

[Docket ID: DoD-2008-HA-0123]

RIN 0720-AB29

TRICARE; TRICARE Delivery of Health Care in Alaska

AGENCY: Office of the Secretary, Department of Defense.

ACTION: Final 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 incorporates the waiver of the requirement for financial underwriting by a TRICARE contractor as a permanent change 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.

DATES: *Effective Date:* September 17, 2010.

FOR FURTHER INFORMATION CONTACT: LTC Stephen Oates, TRICARE Policy and Operations Directorate, TRICARE Management Activity, 5111 Leesburg Pike, Suite 810, Falls Church, VA 22041, 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**, Vol. 69, No. 96/ Tuesday, May 18, 2004/Notices). 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. The demonstration is authorized until March 31, 2011. This rule will make permanent the waiver of the financial underwriting requirement by the TRICARE contractor in the delivery of health care in Alaska.

II. Public Comments

The proposed rule was published in the **Federal Register** (74 FR 62270-62271) on November 27, 2009, for a 60-day comment period. Two comments were submitted and are responded to below.

Comment: Alaska TRICARE managers need authorization, as do other states, to designate civilian primary care managers (PCMs) for care unavailable or too distant for the members who are in TRICARE Prime.

Response: We agree that allowing TRICARE managers the ability to

designate civilian primary care managers (PCMs) would improve the access to care for eligible beneficiaries. Policies are currently being reviewed to assess the feasibility of incorporating such practices without adversely affecting the local community.

Comment: Certified Nurse Midwives and state-licensed direct-entry midwives are underutilized alternatives to physician-led care for pregnant women. Also, TRICARE's authorized providers should be expanded to include state-licensed midwives.

Response: We understand the limited choices available to beneficiaries in the state of Alaska; however, the ultimate decision remains with the beneficiary on provider selection. In order for a Certified Nurse Midwife to become a TRICARE-authorized provider, he/she must be licensed, when required, by a local licensing agency and certified by the American College of Nurse Midwives.

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.

Section 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