

§ 1205.311 What must I do if I erroneously report using the marginal property exception?

If you erroneously report using the marginal property exception on a property that is not a qualified marginal property, you:

- (a) Must amend all erroneously submitted Form MMS-2014s to report your entitled volume for each calendar month;
- (b) Will owe any associated interest calculated under part 1218 of this title; and
- (c) May be subject to civil penalties under part 1241 of this title.

§ 1205.312 What must I do if my property no longer qualifies as a marginal property under this subpart?

(a) Your property must qualify for the marginal property exception under this

subpart for each calendar year based on production during the base period.

(b) If you find that your property is no longer eligible for the marginal property exception in the most recent base period, you must stop using the exception as of December 31 of the year in which the most recent base period ends.

(c) If you do not stop using the marginal property exception as required under paragraph (b) of this section, then you:

- (1) Will owe late payment interest determined under part 1218 of this title from the date you were required to stop using the exception under paragraph (b).
- (2) May be subject to civil penalties under part 1241 of this title.

PART 1210—FORMS AND REPORTS

■ 7. The authority for part 1210 continues to read as follows:

Authority: 5 U.S.C. 301 *et seq.*; 25 U.S.C. 396, 2107; 30 U.S.C. 189, 190, 359, 1023, 1751(a); 31 U.S.C. 3716, 9701; 43 U.S.C. 1334, 1801 *et seq.*; and 44 U.S.C. 3506(a).

Subpart A—General Provisions

§ 1210.10 What are the OMB-approved information collections?

■ 8. Amend § 1210.10 by adding a new OMB control number as the last entry to the table as follows:

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OMB control number and short title	Form or information collected
* * * * *	* * * * *
1012-XXXX, 30 CFR Part 1205, Takes vs. Entitlements	No forms for the following collections: <ul style="list-style-type: none"> • Request to use an alternative method of royalty reporting and payment. • Request to stop using the approved alternative method of royalty reporting and payment.

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DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 199

[DOD-2011-HA-0136]

RIN 0720-AB56

Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); TRICARE Uniform Health Maintenance Organization (HMO) Benefit—Prime Enrollment Fee Exemption for Survivors of Active Duty Deceased Sponsors and Medically Retired Uniformed Services Members and Their Dependents

AGENCY: Office of the Secretary, DoD.

ACTION: Proposed rule.

SUMMARY: This proposed rule would establish an exception to the usual rule that TRICARE Prime enrollment fees are uniform for the group of retirees and their dependents. Survivors and medically retired members are part of the retiree group under TRICARE rules. This exception would allow Survivors of Active Duty Deceased Sponsors and Medically Retired Uniformed Services Members and their Dependents enrolled

in Prime to be exempt from future increases in TRICARE Prime enrollment fees. The Prime beneficiaries in these categories prior to 10/1/2013 would have their annual enrollment fee frozen at their current annual rate (FY 2011 rate \$230 per single or \$460 per family, FY 2012 rate \$260 or \$520, or the FY 2013 rate \$269.38 or \$538.56). The beneficiaries added to these categories on or after 10/1/2013 would have their fee frozen at the rate in effect at the time they are classified in either category and enroll in Prime or, if not enrolling, at the rate in effect at the time of enrollment. The fee remains frozen as long as at least one family member remains enrolled in Prime and there is not a break in enrollment. The fee charged for the dependent(s) of a Medically Retired Uniformed Services Member would not change if the dependent(s) was later re-classified a Survivor.

DATES: Written comments received at the address indicated below by October 7, 2013 will be considered and addressed in the final rule.

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 dependents of the public is to make these submissions available for public viewing on the Internet at <http://regulations.gov> as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Ralph (Doug) McBroom, (703) 681-0039, TRICARE Management Activity, TRICARE Policy and Operations Directorate. Questions regarding payment of specific claims under the TRICARE allowable charge method should be addressed to the appropriate TRICARE contractor.

SUPPLEMENTARY INFORMATION: With respect to TRICARE Prime enrollment fees, the regulation (32 CFR 199.18(c)) currently includes the following provision: “The specific enrollment fee requirements shall be published annually by the Assistant Secretary of Defense (Health Affairs), and shall be uniform within the following groups: dependents of active duty members in

pay grades of E-4 and below; active duty dependents of sponsors in pay grades E-5 and above; and retirees and their dependents." There is no enrollment fee for active duty dependents. The annual enrollment fee for retirees and their dependents since the program began was \$230 per person or \$460 per family until FY 2012. In FY 2012, the Department of Defense implemented a modest increase (\$2.50 per person or \$5.00 per family per month) in the enrollment fees for retirees and their dependents to \$260 per person or \$520 per family, followed by annual indexing. For FY 2013, the fee was increased per the National Defense Authorization Act for FY 2012 using the same Cost of Living Adjustment (COLA) percentage (3.6%) used to increase military retired pay. This increased the fees for FY 2013 to \$269.38 per person or \$538.56 per family.

Although the increases have been modest, TRICARE intends to exempt from this increase Survivors of Active Duty Deceased Sponsors and Medically Retired Uniformed Services Members and their Dependents enrolled in Prime. The enrollment fees for the current beneficiaries in these categories would remain at their current rate. The beneficiaries added to these categories on or after 10/1/2013 would have their fee frozen at the rate in effect at the time they are classified in either category and enroll in Prime or, if not enrolling, at the rate in effect at the time of enrollment. The fee remains frozen as long as at least one family member remains enrolled in TRICARE Prime and there is not a break in enrollment. To allow this exemption to be implemented, a change to the regulation is needed to authorize an exception to the general rule that the enrollment fees "shall be uniform" for the group of retirees and their dependents. (Survivors and medically retired members are part of the retiree group under TRICARE rules.) This proposed rule articulates that change. It provides that as an exception to the requirement for uniformity within the group of retirees and their dependents, the Assistant Secretary of Defense (Health Affairs) may exempt Survivors of Active Duty Deceased Sponsors and Medically Retired Uniformed Services Members and their dependents from increases in enrollment fees that occur on or after October 1, 2013.

It is the Department's intent that the exemption will apply only to the beneficiaries in the two categories specified above and only if they enroll in TRICARE Prime. If a beneficiary in one of the categories does not enroll in

Prime, but later elects to enroll, their rate would be frozen at the rate in effect at the time of enrollment. If a beneficiary dis-enrolls from Prime and later re-enrolls, their rate would be frozen at the rate in effect at re-enrollment. The fee charged for a dependent of a Medically Retired Uniformed Services Member would not change if the dependent was later re-classified a Survivor and remained enrolled in Prime.

Regulatory Procedures

Executive Orders 12866 and 13563 require certain regulatory assessments for any significant regulatory action that would result in an annual effect on the economy of \$100 million or more, or have other substantial impacts. The Congressional Review Act establishes certain procedures for major rules, defined as those with similar major impacts. 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 a regulation that would have significant impact on a substantial number of small entities. This proposed rule will have none of those effects. Nor does it establish information collection requirements under the Paperwork Reduction Act. Nor for purposes of Executive Order 13132 does it have federalism implications affecting States.

List of Subjects in 32 CFR Part 199

Claims, Handicapped, Health insurance, and Military personnel.

Accordingly, 32 CFR part 199 is 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 199.18 is amended by adding at the end of paragraph (c)(1) a new sentence, as follows:

§ 199.18 Uniform HMO Benefit.

* * * * *

(c) * * * . (1) * * * As an exception to the requirement for uniformity within the group of retirees and their dependents, the Assistant Secretary of Defense (Health Affairs) may exempt Survivors of Active Duty Deceased Sponsors and Medically Retired Uniformed Services Members and their Dependents from increases in enrollment fees that occur on or after October 1, 2013.

Dated: July 29, 2013.

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

[DOD-2013-HA-0053]

RIN 0720-AB59

TRICARE Program; Clarification of Benefit Coverage of Durable Equipment and Ordering or Prescribing Durable Equipment; Clarification of Benefit Coverage of Assistive Technology Devices under the Extended Care Health Option Program

AGENCY: Office of the Secretary, DoD.

ACTION: Proposed rule.

SUMMARY: The Department of Defense (DoD) proposes several amendments to the TRICARE regulation. Specifically, the proposed rule revises the definitions of durable equipment (DE) and durable medical equipment (DME) to better conform the language in the regulation to the statute and implementing the statutory requirements will not change current policies. This rule also adds a definition of assistive technology (AT) devices for purposes of benefit coverage under the TRICARE Extended Care Health Option (ECHO) Program and removes the restriction under the TRICARE Basic Program that limits ordering or prescribing of DME to only a physician, to allow certain other authorized individual professional providers acting within the scope of their licensure to order or prescribe DME.

Finally, the proposed rule incorporates a policy clarification relating to luxury, deluxe, or immaterial features of equipment or devices. Namely, TRICARE cannot reimburse for the luxury, deluxe, or immaterial features of equipment or devices. However, the TRICARE Management Activity (TMA) can reimburse for the base or basic equipment or device that meet the beneficiary's needs. Beneficiaries may pay the provider for the luxury, deluxe, or immaterial features themselves, if they desire their equipment or device to have these "extra features."

DATES: Comments must be received on or before October 7, 2013. Do not submit