

their eligibility and previous enrollment subject to eligibility, enrollment and disenrollment provisions described in this section and in the TDP contract.

(iv) Eligible dependents of an active duty, Selected Reserve or Individual Ready Reserve member serving a sentence of confinement in conjunction with a sentence of punitive discharge are still eligible for the TDP until such time as the active duty, Selected Reserve or Individual Ready Reserve member's discharge is executed.

\* \* \* \* \*

Dated: January 4, 2011.

**Patricia L. Toppings,**

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

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BILLING CODE 5001-06-P

## DEPARTMENT OF DEFENSE

### Office of the Secretary

#### 32 CFR Part 199

[DOD-2010-HA-0094; RIN 0720-AB42]

#### **TRICARE; Reimbursement for Travel for Specialty Care Under Exceptional Circumstances**

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

**ACTION:** Proposed rule.

**SUMMARY:** This proposed rule implements section 634 of the National Defense Authorization Act for Fiscal Year 2010 which amends Section 1074i of title 10, United States Code, to permit reimbursement for reasonable travel expenses for active duty members of the uniformed Services and their dependents, and accompaniment, to a specialty care provider under such exceptional circumstances as the Secretary of Defense may proscribe. The Department of Defense through its military treatment facilities and its robust managed care program, TRICARE Prime, is able to fulfill the medical needs of the majority of its active duty members and their families. However, in some locations where active duty members and their families live due to the duty assignment of the member, the medical resources in the military treatment facilities and the managed care networks may not meet all of the specialty care needs of these members and their families within normal access standards. Reimbursement of reasonable travel expenses for required specialty care that is more than 100 miles from the primary care manager's office is currently a benefit under paragraph (a) of section 1074i, title 10, United States

Code for any covered beneficiary enrolled in the TRICARE Prime program, including the active duty members and their dependents. However this proposed rule extends a travel reimbursement for active duty members of the armed forces and their families who, because of an exceptional circumstance involving the duty assignment of the active duty member of the armed forces, are required to travel less than 100 miles but more than 60 minutes in drive time to access needed specialty care. This travel reimbursement benefit is limited to those active duty members and their dependents, and accompaniment, enrolled in Prime or TRICARE Prime Remote. The Director, TRICARE Management Activity, shall issue procedures and guidelines under which authorization for reimbursement of travel expenses will be issued after verification that the member, family member, and/or accompaniment, must travel less than 100 miles but more than 60 minutes drive time from the military treatment facility or their primary care manager's office to receive required specialty care.

**DATES:** Comments must be received on or before March 14, 2011.

**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 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:** TRICARE Policy and Operations, TRICARE Management Activity, 5111 Leesburg Pike, Suite 810, Falls Church, VA 22041.

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Introduction and Background**

The TRICARE benefit was directed by Congress in section 1097 of the National Defense Authorization Act for Fiscal Year 1995. For further information on TRICARE, the reader may refer to the final rule regarding TRICARE published

in the **Federal Register** on October 5, 1995.

#### *Travel for Specialty Care*

Managed care support contractors are required to establish adequate networks throughout regions to complement military treatment facilities and support TRICARE Prime and Extra. However, there are many active duty members of the uniformed Services and their families who are required by the member's duty assignment to live in certain more remote areas where there are insufficient numbers or types of specialty or subspecialty providers to provide care within normal drive-time access standards notwithstanding the due diligence of the contractors in developing the network around the military treatment facilities or their diligence in finding network providers for those members or families enrolled in TRICARE Prime Remote. Under such exceptional circumstances as identified under procedures and guidelines issued by the Director, TRICARE Management Activity, reasonable travel expenses to obtain specialty care for which the enrollee has been referred may be reimbursed. The specific location or identity of these military treatment facilities and the specific TRICARE Prime Remote locations and the types of specialists or sub-specialists shall be determined in accordance with guidelines issued by the Assistant Secretary of Defense for Health Affairs. The guidelines shall include identity of the specific military treatment facility or TRICARE Prime Remote area, validation by either, or both, the facility commander and/or the Director of the TRICARE Regional Office that the specialty care provider or category of specialty care provider required to provide care to the active duty member and their dependents, are not available within a 60 minute drive time, but are available within 100 miles of the military treatment facility or primary care manager's office. The Director of the TRICARE Regional Office shall also verify that the Managed Care Support Contractor has used due diligence in attempting to enroll the needed specialists who do meet the drive time specialty care access standards, into the network. The Director, TRICARE Management Activity shall establish and make available a list of military treatment facilities and category of specialty providers for which these reasonable travel expenses shall be allowed. For members, and families, enrolled in TPR the Director shall ensure that adequate coordination of care and travel benefits is provided to

those qualifying members and their families.

## II. Regulatory Procedures

*Executive Order 12866, "Regulatory Planning and Review" and Public Law 96-354, "Regulatory Flexibility Act" (5 U.S.C. 601)*

Executive Order 12866 requires that a comprehensive regulatory impact analysis be performed on any economically 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. 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 which would have a significant impact on a substantial number of small entities. This proposed rule is not a 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 information collection requirements on the public.

*Executive Order 13132, "Federalism"*

We have examined the impacts 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.

*Sec. 202, Public Law 104-4, "Unfunded Mandates Reform Act"*

This rule does not contain unfunded mandates. It 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.

### 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 199.17 is amended by revising paragraph (n)(2)(vi) to read as follows:

### § 199.17 TRICARE program

\* \* \* \* \*

(n) \* \* \*

(2) \* \* \*

(vi) In accordance with guidelines issued by the Assistant Secretary of Defense for Health Affairs, reasonable travel expenses may be reimbursed for a TRICARE Prime enrollee and, when an adult non-medical attendant is necessary, for a parent or guardian of the enrollee or another member of the enrollee's family who is at least 21 years of age. Such guidelines shall be consistent with appropriate provisions of generally applicable Department of Defense rules and procedures governing travel expenses. Reimbursement of reasonable travel expenses shall be provided under the following conditions:

(A) When a Prime enrollee is referred by the primary care manager for medically necessary specialty care more than 100 miles away from the primary care manager's office.

(B) When an exceptional circumstance exists involving referral for specialty care for an active duty member of the uniformed Services or a dependent of an active duty member of the uniformed Services enrolled in Prime or in TRICARE Prime Remote. An exceptional circumstance exists when the enrollee is referred for medically necessary specialty care requiring travel beyond a 60-minute drive time but within 100 miles of the military treatment facility or the TRICARE Prime Remote primary care manager's office. The Director, TRICARE shall issue guidelines and procedures under which authorization of travel expenses will be issued based on verification that a specialty care provider or specific category of specialty care provider is not available within 60-minute drive time but less than 100 miles from a referring military treatment facility or TRICARE Prime Remote primary care manager's office. The guidelines and procedures shall also include verification that the Managed Care Support Contractor has used due diligence in attempting to enroll into the network needed specialists who meet the normal drive time specialty care access standards or has otherwise identified non-network providers within the specialty care

access standards to whom a Prime enrollee may be referred without incurring point of service costs. The Director, TRICARE may establish and make available a list of military treatment facilities and specialty providers for each for which these reasonable travel expenses shall be allowed and shall ensure that members and their families enrolled in TRICARE Prime Remote obtain assistance in receiving this benefit when appropriate.

\* \* \* \* \*

Dated: January 4, 2011.

**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-2011-HA-0007]

RIN 0720-AB43

#### TRICARE Reimbursement Revisions

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

**ACTION:** Proposed rule.

**SUMMARY:** The rule proposes several revisions to the regulation necessary to be consistent with Medicare, to include: hospice periods of care; reimbursement of physician assistants and assistant-at-surgery claims; and this rule revises the regulation by removing references to specific numeric Diagnosis Related Group (DRG) values, and replacing them with their narrative description.

**DATES:** Written comments received at the address indicated below by March 14, 2011 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