

Dated: July 24, 2003.

L.M. Bynum,

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

[FR Doc. 03-19452 Filed 7-30-03; 8:45 am]

BILLING CODE 5001-08-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 199

RIN-0720-AA72

TRICARE Program; Waiver of Certain TRICARE Deductibles; Clarification of TRICARE Prime Enrollment Period; Enrollment in TRICARE Prime Remote for Active Duty Family Members

AGENCY: Office of the Secretary, DoD.

ACTION: Interim final rule.

SUMMARY: A proposed rule to implement section 714 of the National Defense Authorization Act (NDAA) for Fiscal Year 2000 was published on April 18, 2002 (67 FR 19141) to authorize the Secretary of Defense to waive the TRICARE deductible in certain cases for care provided to a dependent of a member of a Reserve Component or the National Guard who is called to active duty for more than 30 days but less than one year. The proposed rule also established circumstances under which eligible beneficiaries may enroll in TRICARE Prime for a period of less than one year. The proposed rule is withdrawn and instead is implemented along with section 702 of the NDAA for FY 2003, which establishes circumstances under which dependents of Reserve Component and National Guard members called to active duty in support of contingency operations may enroll in TRICARE Prime Remote for Active Duty Family Members, and dependents of TRICARE Prime Remote service members who are enrolled in TRICARE Prime Remote for Active Duty Family Members may remain enrolled when the service member receives orders for an unaccompanied follow-on assignment. This interim final rule authorizes the Secretary of Defense to waive the TRICARE deductible in certain cases for care provided to a dependent of a member of a Reserve Component or the National Guard who is called to active duty for more than 30 days but less than 1 year. It establishes circumstances under which eligible beneficiaries may enroll in TRICARE Prime for a period of less than 1 year.

EFFECTIVE DATE: This interim final rule is effective September 29, 2003.

ADDRESSES: TRICARE Management Activity (TMA), Medical Benefits and Reimbursement Systems, 16401 East Centretech Parkway, Aurora, CO 80011-9043.

FOR FURTHER INFORMATION CONTACT:

Stephen E. Isaacson, Medical Benefits and Reimbursement Systems, TMA, (303) 676-3572.

SUPPLEMENTARY INFORMATION:

I. Summary of Interim Final Rule Provisions

The reader should refer to the proposed rule that was published on April 18, 2002, (67 FR 19141) for more detailed information regarding these changes. This interim final rule describes the circumstances under which eligible dependents of active duty members, and eligible dependents of Reserve Component and National Guard members called to active duty in support of contingency operations may enroll in TRICARE Prime Remote for Active Duty Family Members. In addition, this interim rule describes the circumstances under which eligible dependents of TRICARE Prime Remote service members who are enrolled in the TRICARE Prime Remote for Active Duty Family Member program may remain enrolled when the service member receives a follow-on accompanied assignment and the dependents continue to reside in the TRICARE Prime Remote location.

Changes to the provisions for TRICARE Prime Remote for Active Duty Family Members (TPRADFM) are required by Section 702 of P.L. 107-314 (the NDAA for FY 2003). First, family members who are enrolled in TPRADFM may continue their enrollment when the member has relocated without the family members pursuant to orders for a permanent change of duty station, if the orders do not authorize dependents to accompany the member to the new duty station at the expense of the United States, and if the family members continue to reside at the same location at which they were enrolled in TPRADFM. Second, family members of a reserve component member ordered to active duty for a period of more than 30 days may enroll in TPRADFM if they reside with the member and if the residence is more than fifty (50) miles, or approximately one hour driving time, from the nearest military medical treatment facility adequate to provide the needed care.

The changes related to TPRADFM were not included in the original proposed rule, but, since they are statutorily required and also require a change to a paragraph of 32 CFR Part

199.17 that was being revised pursuant to the proposed rule, we are including all of the changes in this interim final rule.

II. Public Comments

We provided a 60-day comment period on the proposed rule. We received no public comments.

III. Changes in the Interim Final Rule

In both paragraph (f)(2)(i)(H) of Section 199.4 and paragraph (o)(2) of Section 199.17, we have clarified that these provisions apply only to members of the National Guard who are ordered to federal active duty under authority of the President and not to those members who are ordered to active duty under the authority of a governor of a state. In addition, in paragraph (f)(2)(i)(H) of Section 199.4, we have changed "the Secretary of Defense, or a designee," to "the Director, TRICARE Management Activity" as the authority to waive the annual fiscal year deductible. This is only a wording change and not a substantive change, since the Secretary of Defense, through 32 CFR 199.1(c)(2) and 32 CFR part 367, has delegated authority to the Assistant Secretary of Defense (Health Affairs), who has delegated authority to the Director, TRICARE Management Activity, to provide policy guidance, management control, and coordination as required by CHAMPUS.

The proposed rule would have established in the regulation an administrative authority for Reservists and members of the National Guard who are called or ordered to active duty for a period of 179 days or more to enroll in TRICARE Prime. We are changing that provision in this interim final rule.

Reserve components (including both reservists and members of the National Guard) participate in military conflicts and peacekeeping missions in areas such as Bosnia, Kosovo, and southwest Asia, and assist in homeland security. The operational tempo following the events of September 11, 2001, showed a dramatic increase in the number of reservists activated for these requirements. These reservists receive varying levels of medical benefits according to their primary residence location, length of call up, and type of activation order. For example, the Department established a demonstration in order to ease the burden imposed on the large number of reserve component members who have been activated in response to September 11 under Operations Noble Eagle and Enduring Freedom (66 FR 55928). This demonstration which is called the TRICARE Reserve Family Member