

Demonstration Project (TRFMDP) provides three enhancements to the TRICARE Standard benefit for their family members: the annual deductible was waived, the requirement to obtain a non-availability statement was waived, and TRICARE will pay up to fifteen percent above the TRICARE maximum allowable charge for services received from nonparticipating providers. However, the demonstration is due to expire on November 1, 2003, although large numbers of individuals continue to be activated. In addition, family members of reserve component members who are activated under other authorities do not receive these enhanced benefits.

In order to eliminate these discrepancies while continuing to provide some enhanced benefits to family members of activated reserve component members, the Department has authorized family members of activated reserve component members who live in military treatment facility catchment areas to enroll in TRICARE Prime if the member is activated for more than 30 days rather than for 179 days or more. A catchment area is established by zip codes, but is generally a home residence within 50 miles, or approximately one hour driving time, from the nearest military treatment facility adequate to provide care. This change accomplishes three goals. First, it provides family members of these activated reserve component members with substantially the same benefits available to family members of activated reserve component members under the TRFMDP. Second, it provides these family members with the same benefits available to family members who live outside catchment areas under the TPRADFM through the provisions of Section 702 of P.L. 107-314. Third, it ensures that the medical benefits available to family members of activated reservists are as similar as possible to those available to family members of active duty members.

This interim final rule establishes specific regulatory authority for this provision.

IV. Regulatory Procedures

Executive Order 12866 requires that a regulatory impact analysis be performed on any major rule. A "major rule" is defined as one that would result in the annual effect on the national economy of \$100 million or more, or have other substantial impact. 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 regulations which would

have a significant impact on a substantial number of small entities.

This interim final rule is not major rule under the Congressional Review Act. The changes set forth in this interim final rule are minor revisions to existing regulation. The changes made in this interim final rule involve an expansion of TRICARE benefits. In addition, this interim final rule will have minor impact and will not significantly affect a substantial number of small entities. In light of the above, no regulatory impact analysis is required.

This rule has been designated as significant and has been reviewed by the Office Management and Budget as required under the provisions of E.O. 12866.

This interim final rule will not impose additional information collection requirements on the public under the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 55).

List of Subjects in 32 CFR Part 199

Claims, handicapped, health insurance, and military personnel.

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 adding a new paragraph (f)(2)(i)(H) as follows:

§ 199.4 Basic program benefits.

- (f) * * *
- (2) * * *
- (i) * * *

(H) The Director, TRICARE Management Activity, may waive the annual individual or family fiscal year deductible for dependents of a Reserve Component member who is called or ordered to active duty for a period of more than 30 days but less than one year or a National guard member who is called or ordered to full-time federal National guard duty for a period of more than 30 days but less than one year, in support of a contingency operation (as defined in 10 U.S.C. 101(a)(13)). For purposes of this paragraph, a dependent is a lawful husband or wife of the member and a child as defined in paragraphs (b)(2)(ii)(A) through (F) and (b)(2)(ii)(H)(1), (2) and (4) of Part 199.3.

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■ 3. Section 199.17 is amended by revising paragraphs (g)(3), (o) and (o)(2) as follows:

§ 199.17 TRICARE Program.

- (g) * * *
- (3) Eligibility.

(i) An active duty family member is eligible for TRICARE Prime Remote for Active Duty Family Members if he or she is eligible for CHAMPUS and, on or after December 2, 2003 meets the criteria of either (g)(3)(i)(A) and (B), or (g)(3)(i)(C):

(A) The family member's active duty sponsor has been assigned permanent duty as a recruiter; as an instructor at an educational institution, an administrator of a program, or to provide administrative services in support of a program of instruction for the Reserve Officers' Training Corps; as a full-time adviser to a unit of a reserve component; or any other permanent duty designated by the Director, TRICARE Management Activity that the Director determines is more than 50 miles, or approximately one hour driving time, from the nearest military treatment facility that is adequate to provide care.

(B) The family members and active duty sponsor, pursuant to the assignment of duty described in paragraph (g)(3)(i)(A) of this section, reside at a location designed by the Director, TRICARE Management Activity, that the Director determines is more than 50 miles, or approximately one hour driving time, from the nearest military medical treatment facility that is adequate to provide care.

(c) The family member, having resided together with the active duty sponsor while the sponsor served in an assignment described in (g)(3)(i)(A), continues to reside at the same location after the sponsor relocates without the family member pursuant to orders for a permanent change of duty station, and the orders do not authorize dependents to accompany the sponsor to the new duty station at the expense of the United States.

(ii) A family member who is a dependent of a reserve component member is eligible for TRICARE Prime Remote for Active Duty Family members if he or she is eligible for CHAMPUS and meets all of the following additional criteria:

(A) The reserve component member has been ordered to active duty for a period of more than 30 days.

(B) The family member resides with the member.

(C) The Director, TRICARE Management Activity, determines the residence of the reserve component member is more than 50 miles, or approximately one hour driving time, from the nearest military medical treatment facility that is adequate to provide care.

(D) "Resides with" is defined as the TRICARE Prime Remote residence