

administration, and financing methods is preempted and does not apply in connection with the TRICARE Selected Reserve Dental Program contract. Any such law, or regulation pursuant to such law, is without any force or effect, and State or local governments have no legal authority to enforce them in relation to the TRICARE Selected Reserve Dental Program contract. (However, the Department of Defense may, by contract, establish legal obligations on the part of the TRICARE Selected Reserve Dental Program contractor to conform with requirements similar to or identical to requirements of State or local laws or regulations).

(3) The preemption of State and local laws set forth in paragraph (m)(2) of this section includes State and local laws imposing premium taxes on health or dental insurance carriers or underwriters or other plan managers, or similar taxes on such entities. Such laws are laws relating to health insurance, prepaid health plans, or other health care delivery or financing methods, within the meaning of section 1103. Preemption, however, does not apply to taxes, fees, or other payments on net income or profit realized by such entities in the conduct of business relating to DoD health services contracts, if those taxes, fees or other payments are applicable to a broad range of business activity. For the purposes of assessing the effect of Federal preemption of State and local taxes and fees in connection with DoD health and dental services contracts, interpretations shall be consistent with those applicable to the Federal Employees Health Benefits Program under 5 U.S.C. 8909(f).

(n) *Administration.* The Assistant Secretary of Defense (Health Affairs) or designee may establish other rules and procedures for the administration of the TRICARE Selected Reserve Dental Program.

[62 FR 66990, Dec. 23, 1997]

**§ 199.22 TRICARE Retiree Dental Program (TRDP).**

(a) *Purpose.* The TRDP is a premium based indemnity dental insurance coverage program that will be available to retired members of the Uniformed Services, their dependents, and certain other beneficiaries, as specified in

paragraph (d) of this section. The TRDP is authorized by 10 U.S.C. 1076c.

(b) *General provisions.* (1) Benefits are limited to diagnostic services, preventive services, basic restorative services (including endodontics), surgical services, and emergency oral examinations, as specified in paragraph (f) of this section.

(2) Premium costs for this coverage will be paid by the enrollee.

(3) The program is applicable to authorized providers in the 50 United States and the District of Columbia, Canada, Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the U.S. Virgin Islands.

(4) Except as otherwise provided in this section or by the Assistant Secretary of Defense (Human Affairs) or designee, the TRDP is administered in a manner similar to the Active Duty Dependents Dental Plan under § 199.13 of this part.

(5) The TRDP shall be administered through a contract.

(c) *Definitions.* Except as may be specifically provided in this section, to the extent terms defined in §§ 199.2 and 199.13(b) of this part are relevant to the administration of the TRICARE Retiree Dental Program, the definitions contained in §§ 199.2 and 199.13(b) of this part shall apply to the TRDP as they do to CHAMPUS and the TRICARE Active Duty Dependents Dental Plan.

(d) *Eligibility and enrollment.*—(1) *Eligibility.* Enrollment in the TRICARE Retiree Dental Program is open to:

(i) Members of the Uniformed Services who are entitled to retired pay;

(ii) Members of the Retired Reserve under the age of 60;

(iii) Eligible dependents of paragraph (d)(1)(i) or paragraph (d)(1)(ii) of this section who are covered by the enrollment of the member; and

(iv) The unremarried surviving spouse and eligible child dependents of a deceased member who died while in status described in paragraph (d)(1)(i) or paragraph (d)(1)(ii) of this section; the unremarried surviving spouse and eligible child dependents who receive a surviving spouse annuity; or the unremarried surviving spouse and eligible child dependents of a deceased member who died while on active duty

for a period of more than 30 days and whose eligible dependents are not eligible or no longer eligible for the Active Duty Dependents Dental Plan.

(2) *Notification of eligibility.* The contractor will notify persons eligible to receive dental benefits under the TRICARE Retiree Dental Program.

(3) *Election of coverage.* Following this notification, interested members entitled to retired pay and eligible family members and their dependents may elect to enroll. In order to obtain dental coverage, written election by the eligible beneficiary must be made.

(4) *Enrollment.* Enrollment in the TRICARE Retiree Dental Program is voluntary and will be accomplished by submission of an application to the TRDP contractor. Initial enrollment shall be for a period of 24 months followed by month-to-month enrollment as long as the enrollee chooses to continue enrollment.

(5) *Period of coverage.* TRICARE Retiree Dental Program coverage is terminated when the member's entitlement to retired pay is terminated, the member's status as a member of the Retired Reserve is terminated, a dependent child loses eligible child dependent status, or in the case of remarriage of the surviving spouse.

(6) *Continuation of dependents' enrollment upon death of enrollee.* Coverage of a dependent in the TRDP under an enrollment of a member or surviving spouse who dies during the period of enrollment shall continue until the end of that period and may be renewed by (or for) the dependent, so long as the premium paid is sufficient to cover continuation of the dependent's enrollment. Coverage may be terminated when the premiums paid are no longer sufficient to cover continuation of the enrollment.

(e) *Premium payments.* Persons enrolled in the dental plan will be responsible for paying the full cost of the premiums in order to obtain the dental insurance.

(1) *Premium payment method.* The premium payment may be collected pursuant to procedures established by the Assistant Secretary of Defense (Health Affairs) or designee.

(2) *Effects of failure to make premium payments.* Failure to make monthly re-

newal premium payments will result in the enrollee's disenrollment from the TRDP and subject to a lock-out period of 12 months. Following this period of time, persons eligible will be able to re-enroll if they so choose.

(3) *Member's payment of premiums.* The cost of the TRDP monthly premium will be paid by the enrollee. Interested beneficiaries may contact the dental contractor-insurer to obtain the enrollee premium cost.

(f) *Plan benefits.* (1) The TRDP will provide basic dental care, to include diagnostic services, preventive services, basic restorative services (including endodontics), surgical services, and emergency oral examinations. The following is the TRDP covered dental benefit (using the American Dental Association, The Council on Dental Care Program's Code On Dental Procedures and Nomenclature):

(i) Diagnostic: Periodic oral evaluation (00120); Comprehensive oral evaluation (limited to one exam per year in the same dental office) (00150); Intraoral-complete series (including bitewings) (00210); Intraoral-periapical-first film (00220); Intraoral-periapical-each additional film (00230); Intraoral-occlusal film (00240); Bitewings-single film (00270); Bitewings-two films (00272); Bitewings-four films (00274); Panoramic film (00330); Caries susceptibility tests, by report (00425); Pulp vitality tests (00460).

(ii) Preventive: Prophylaxis-adult (limit-once per year) (01110); Prophylaxis-child (01120); Topical application of fluoride (excluding prophylaxis)-child (01203); Topical application of fluoride (excluding prophylaxis)-adult, by report, once per year (01204); Sealant-per tooth (01351); Space maintainer-fixed-unilateral (01510); Space maintainer-fixed-bilateral (01515); Space maintainer-removable-unilateral (01520); Space maintainer-removable-bilateral (01525); Recementation of space maintainer (01550).

(iii) Restorative: Amalgam-one surface, primary (02110); Amalgam-two surfaces, primary (02120); Amalgam-three surfaces, primary (02130); Amalgam-four or more surfaces, primary (02131); Amalgam-one surface, permanent (02140); Amalgam-two surfaces,

permanent (02150); Amalgam-three surfaces, permanent (02160); Amalgam-four or more surfaces, permanent (02161); Resin-one surface, anterior (02330); Resin-two surfaces, anterior (02331); Resin-three surfaces, anterior (02332); Resin-four or more surfaces or involving incisal angle (anterior) (02335); Recement inlay (02910); Recement crown (02920); Prefabricated stainless steel crown-primary tooth (02930); Prefabricated stainless crown-permanent tooth (02931); Prefabricated resin crown (02932); Prefabricated stainless steel crown with resin window (02933); Pin retention-per tooth, in addition to restoration (02951); Temporary crown (fractured tooth) (02970).

(iv) Endodontic: Pulp cap-indirect (excluding final restoration) (03120); Therapeutic pulpotomy (excluding final restoration) (03220); Pulpal therapy (resorbable filling)-anterior, primary tooth (excluded final restoration) (03230); Pulpal therapy (resorbable filling)-posterior, primary tooth (excluded final restoration) (03240); Anterior root canal (excluding final restoration) (03310); Bicuspid root canal (excluding final restoration) (03320); Molar root canal (excluding final restoration) (03330); Retreatment-anterior, by report (03346); Retreatment-bicuspid, by report (03347); Retreatment-molar, by report (03348); Apexification/recalcification-initial visit (apical closure/calific repair of perforations, root resorption, etc.) (03351); Apexification/recalcification-interim medication replacement (apical closure/calific repair of perforations, root resorption, etc.) (03352); Apexification/recalcification-final visit (includes completed root canal therapy-apical closure/calific repair of perforations, root resorption, etc.) (03353); Apicoectomy/Periradicular surgery-anterior (03410); Apicoectomy/Periradicular surgery-bicuspid (first root) (03421); Apicoectomy/Periradicular surgery-molar (first root) (03425); Apicoectomy/Periradicular surgery (each additional root) (03426); Retrograde filling-per root (03430); Root amputation-per root (03450); Hemisection (including any root removal), not including root canal therapy (03920).

(v) Periodontic: Gingivectomy or gingivoplasty-per quadrant (04210);

Gingivectomy or gingivoplasty-per tooth (04211); Gingival curettage, surgical, per quadrant, by report (04220); Gingival flap procedure, including root planing-per quadrant (04240); Mucogingival surgery-per quadrant (04250); Osseous surgery (including flap entry and closure)-per quadrant (04260); Bone replacement graft-single site (including flap entry and closure) (04263); Bone replacement graft-multiple sites (including flap entry and closure) (04264); Guided tissue regeneration—resorbable barrier (04266); Guided tissue regeneration—nonresorbable barrier (04267); Pedicle soft tissue graft procedure (04270); Free soft tissue graft procedure (including donor site) (04271); Periodontal scaling and root planing-per quadrant (04341); Periodontal maintenance procedures (following active therapy) (04910); Unscheduled dressing change (by someone other than treating dentist) (04920).

(vi) Oral Surgery: Single tooth (07110); Each additional tooth (07120); Root removal-exposed roots (07130) Surgical removal or erupted tooth requiring elevation of mucoperiosteal flap and removal of bone and/or section of tooth (07210); Removal of impacted tooth-soft tissue (07220); Removal of impacted tooth-partially bony (07230); Removal of impacted tooth-completely bony (07240); Surgical removal of residual tooth roots (cutting procedure) (07250); Oral antral fistula closure (07260); Tooth reimplantation and/or stabilization of accidentally evulsed or displaced tooth and/or alveolus (07270); Surgical exposure of impacted or unerupted tooth to aid eruption (07281); Biopsy of oral tissue-hard (07285); Biopsy of oral tissue-soft (07286); Surgical repositioning of teeth (074290); Alveoloplasty in conjunction with extractions-per quadrant (07310); Suture of recent small wounds up to 5 cm (07910); Complicated suture-up to 5 cm (07911); Complicated suture-greater than 5 cm (07912); Excision of pericoronal gingiva (07971).

(vii) Emergency: Limited oral evaluation—problem focused (00140); Palliative (emergency) treatment of dental pain-minor procedures (09110).

(viii) Drugs: Therapeutic drug injection, by report (09610); Other drugs and/or medications, by report (09630).

(ix) Postsurgical: Treatment of complications (post-surgical) unusual circumstances, by report (09930).

(2) Codes listed in paragraph (f)(1) of this section may be modified by the Director, OCHAMPUS, to the extent determined appropriate based on developments in common dental care practices and standard dental insurance programs.

(g) *Maximum annual cap.* TRDP enrollees will be subject to a maximum cap of \$1,000.00 of paid allowable charges per enrollee per year.

(h) *Annual notification of rates.* TRDP premiums will be determined as part of the competitive contracting process. Information on the premium rates will be widely distributed.

(i) *Authorized providers.* The TRDP enrollee may seek covered services from any provider who is fully licensed and approved to provide dental care in the state where the provider is located.

(j) *Benefit payment.* Enrollees are not required to utilize the special network of dental providers established by the TRDP contractor. For enrollees who do use these network providers, however, providers shall not balance bill any amount in excess of the maximum payment allowable by the TRDP. Enrollees using non-network providers may balance billed amounts in excess of allowable charges. The maximum payment allowable by the TRDP (minus the appropriate cost-share) will be the lesser of:

(1) Billed charges; or

(2) Usual, Customary and Reasonable rates, in which the customary rate is calculated at the 50th percentile of billed charges in that geographic area, as measured in an undiscounted charge profile in 1995 or later for that geographic area (as defined by three-digit zip code).

(k) *Appeal and hearing procedures.* All levels of appeals and grievances established by the Contractor for internal review shall be exhausted prior to forwarding to OCHAMPUS for a final review. Procedures comparable to those established under § 199.13(h) of this part shall apply.

(l) *Preemption of State laws.* (1) Pursuant to 10 U.S.C. 1103, the Department of Defense has determined that in the administration of chapter 55 of title 10,

U.S. Code, preemption of State and local laws relating to health insurance, prepaid health plans, or other health care delivery or financing methods is necessary to achieve important Federal interests, including but not limited to the assurance of uniform national health programs for military families and the operation of such programs at the lowest possible cost to the Department of Defense, that have a direct and substantial effect on the conduct of military affairs and national security policy of the United States. This determination is applicable to the dental services contracts that implement this section.

(2) Based on the determination set forth in paragraph (l)(1) of this section, any State or local law or regulation pertaining to health or dental insurance, prepaid health or dental plans, or other health or dental care delivery, administration, and financing methods is preempted and does not apply in connection with the TRICARE Retiree Dental Program contract. Any such law, or regulation pursuant to such law, is without any force or effect, and State or local governments have no legal authority to enforce them in relation to the TRICARE Retiree Dental Program contract. (However, the Department of Defense may, by contract, establish legal obligations on the part of the TRICARE Retiree Dental Program contractor to conform with requirements similar to or identical to requirements of State or local laws or regulations).

(3) The preemption of State and local laws set forth in paragraph (l)(2) of this section includes State and local laws imposing premium taxes on health or dental insurance carriers or underwriters or other plan managers, or similar taxes on such entities. Such laws are laws relating to health insurance, prepaid health plans, or other health care delivery or financing methods, within the meaning of section 1103. Preemption, however, does not apply to taxes, fees, or other payments on net income or profit realized by such entities in the conduct of business relating to DoD health services contracts, if those taxes, fees or other payments are applicable to a broad range of business activity. For the purposes of assessing

the effect of Federal preemption of State and local taxes and fees in connection with DoD health and dental services contracts, interpretations shall be consistent with those applicable to the Federal Employees Health Benefits Program under 5 U.S.C. 8909(f).

(m) *Administration.* The Assistant Secretary of Defense (Health Affairs) or designee may establish other rules and procedures for the administration of the TRICARE Retiree Dental Program.

[62 FR 66993, Dec. 23, 1997]

#### APPENDIX A TO PART 199—ACRONYMS

AFR—Air Force Regulation  
 AR—Army Regulation  
 ASD (HA)—Assistant Secretary of Defense (Health Affairs)  
 CCLR—Claims Collection Litigation Report  
 CEOB—CHAMPUS Explanation of Benefits  
 CFR—Code of Federal Regulations  
 CHAMPUS—Civilian Health and Medical Program of the Uniformed Services  
 CRD—Chronic Renal Disease  
 CT—Computerized Tomography  
 DASD (A)—Deputy Assistant Secretary of Defense (Administration)  
 D.D.S.—Doctor of Dental Surgery  
 DEERS—Defense Enrollment Eligibility Reporting System  
 DHHS—Department of Health and Human Services  
 D.M.D.—Doctor of Dental Medicine  
 DME—Durable Medical Equipment  
 D.O.—Doctor of Osteopathy  
 DoD—Department of Defense  
 DSM-III—Diagnostic and Statistical Manual of Mental Disorders (Third Edition)  
 EEG—Electroencephalogram  
 EST—Electroshock Therapy  
 FAR—Federal Acquisition Regulation  
 FEHBP—Federal Employees Health Benefits Program  
 FMCRA—Federal Medical Care Recovery Act  
 FR—Federal Register  
 HBA—Health Benefits Advisor  
 HL—Hearing Threshold Level  
 Hz—Hertz  
 ICD-9-CM—International Classification of Diseases, 9th Revision, Clinical Modification  
 ICU—Intensive Care Unit  
 IQ—Intelligence Quotient  
 JCAH—Joint Commission on Accreditation of Hospitals  
 L.P.N.—Licensed Practical Nurse  
 L.V.N.—Licensed Vocational Nurse  
 MBD—Minimal Brain Dysfunction  
 MCO—Marine Corps Order  
 M.D.—Doctor of Medicine  
 MIA—Missing in Action  
 NATO—North Atlantic Treaty Organization

NAVMILPERSCOMINST—Navy Military Personnel Command Instruction  
 NAVPERS—Navy Personnel  
 NOAA—National Oceanic and Atmospheric Administration  
 OCHAMPUS—Office of Civilian Health and Medical Program of the Uniformed Services  
 OCHAMPUSEUR—Office of Civilian Health and Medical Program of the Uniformed Services for Europe  
 OCHAMPUSPAC—Office of Civilian Health and Medical Program of the Uniformed Services for the Pacific Area  
 OCHAMPUSSO—Office of Civilian Health and Medical Program of the Uniformed Services for the Southern Hemisphere  
 OMB—Office of Management and Budget  
 PFPWD—Program for Persons with Disabilities  
 PKU—Phenylketonuria  
 R.N.—Registered Nurse  
 RTC—Residential Treatment Center  
 SNF—Skilled Nursing Facility  
 STF—Specialized Treatment Facility  
 U.S.C.—United States Code  
 USPHS—U.S. Public Health Service

[51 FR 24008, July 1, 1986, as amended at 62 FR 35097, June 30, 1997]

#### PART 203—TECHNICAL ASSISTANCE FOR PUBLIC PARTICIPATION (TAPP) IN DEFENSE ENVIRONMENTAL RESTORATION ACTIVITIES

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