

(b) *Employee or contract personnel interviews.* MMS or its authorized representative may conduct interviews at either onshore or offshore locations to inquire about the types of training that were provided, when and where this training was conducted, and how effective the training was.

(c) *Employee or contract personnel testing.* MMS or its authorized representative may conduct testing at either onshore or offshore locations for the purpose of evaluating an individual's knowledge and skills in perfecting well control and production safety duties.

(d) *Hands-on production safety, simulator, or live well testing.* MMS or its authorized representative may conduct tests at either onshore or offshore locations. Tests will be designed to evaluate the competency of your employees or contract personnel in performing their assigned well control and production safety duties. You are responsible for the costs associated with this testing, excluding salary and travel costs for MMS personnel.

**§ 250.1508 What must I do when MMS administers written or oral tests?**

MMS or its authorized representative may test your employees or contract personnel at your worksite or at an onshore location. You and your contractors must:

(a) Allow MMS or its authorized representative to administer written or oral tests; and

(b) Identify personnel by current position, years of experience in present position, years of total oil field experience, and employer's name (e.g., operator, contractor, or sub-contractor company name).

**§ 250.1509 What must I do when MMS administers or requires hands-on, simulator, or other types of testing?**

If MMS or its authorized representative conducts, or requires you or your contractor to conduct hands-on, simulator, or other types of testing, you must:

(a) Allow MMS or its authorized representative to administer or witness the testing;

(b) Identify personnel by current position, years of experience in present position, years of total oil field experience, and employer's name (e.g., operator, contractor, or sub-contractor company name); and

(c) Pay for all costs associated with the testing, excluding salary and travel costs for MMS personnel.

**§ 250.1510 What will MMS do if my training program does not comply with this subpart?**

If MMS determines that your training program is not in compliance, we may initiate one or more of the following enforcement actions:

(a) Issue an Incident of Noncompliance (INC);

(b) Require you to revise and submit to MMS your training plan to address identified deficiencies;

(c) Assess civil/criminal penalties; or

(d) Initiate disqualification procedures.

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BILLING CODE 4310-MR-P

## DEPARTMENT OF DEFENSE

### Office of the Secretary

#### 32 CFR Part 199

#### Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Enhancement of Dental Benefits Under the TRICARE Retiree Dental Program

AGENCY: Office of the Secretary, DoD.

ACTION: Interim final rule with request for comments.

**SUMMARY:** This interim final rule implements section 704 of the National Defense Authorization Act for Fiscal Year 2000, to allow additional benefits under the retiree dental insurance plan for Uniformed Services retirees and their family members that may be comparable to those under the Dependents Dental Program. The Department is publishing this rule as an interim final rule in order to comply timely with the desire of Congress to meet the needs of retirees for additional dental coverage. Public comments are invited and will be considered for possible revisions to this rule at the time of publication of the final rule.

**DATES:** Effective August 14, 2000.

Comments must be received on or before October 13, 2000.

**ADDRESSES:** Forward comments to: TRICARE Management Activity (TMA), Special Contracts and Operations Office, 16401 East Centretch Parkway, Aurora, CO 80011-9043.

**FOR FURTHER INFORMATION CONTACT:** Linda Winter, Special Contracts and Operations Office, TMA, (303) 676-3682.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

The TRICARE Retiree Dental Program (TRDP), a voluntary dental insurance

plan completely funded by enrollees' premiums, was implemented in 1998 to provide benefits for basic dental care and treatment based on the authority of 10 U.S.C. 1076c. Under the enabling legislation, the benefits that can be provided are limited to "basic dental care and treatment, involving diagnostic services, preventative services, basic restorative services (including endodontics), surgical services, and emergency services." Accordingly, the implementing regulation, 32 CFR 199.22, limited coverage to the most common dental procedures necessary for maintenance of good dental health and did not include coverage of major restorative services, prosthodontics, orthodontics or other procedures considered to be outside of the "basic dental care and treatment" range.

Although the program was viewed as a major advance in offering dental coverage to retired members of the Uniformed Services and their family members at a very reasonable cost, there were still concerns that the enabling legislation was too restrictive in scope and that there should be expansion of services to better meet the needs of retirees.

Congress responded to these concerns by amending 10 U.S.C. 1076c with section 704 of the National Defense Authorization Act for Fiscal Year 2000, Pub. L. 106-065, to allow the Secretary of Defense to offer additional coverage. Under provisions of the amendment, the TRDP benefits may be "comparable to the benefits authorized under section 1076a" of title 10, the Dependents Dental Plan, commonly known as the TRICARE Family Member Dental Plan. Thus, in addition to the original basic services described above, which continue to be mandated, coverage of "orthodontic services, crowns, gold fillings, bridges, complete or partial dentures, and such other services as the Secretary of Defense considers to be appropriate" [10 U.S.C. 1076a(d)(3)] may be covered by the TRDP.

The language of section 704 of the National Defense Authorization Act for Fiscal Year 2000 is permissive and does not mandate such coverage. However, because of the many requests for additional TRDP coverage regardless of the inevitable increase in premiums, the DoD is proposing to expand the current coverage through a contractual arrangement. The premium cost of the enhanced coverage will remain the responsibility of the enrollees.

##### II. Provisions of the Interim Final Rule for Enhancement of TRDP Benefits

This interim final rule allows expansion of the TRDP benefits to be

comparable to the coverage under Active Duty Dental Plan at 32 CFR 199.13, commonly known as the TRICARE Family Member Dental Plan. It maintains the original basic TRDP coverage, with the original initial and renewal enrollment periods, until contractual arrangements are in place for the additional benefits. Enrollment in the original basic plan will be superseded by enrollment in the enhanced plan. Effective with the implementation of an enhanced plan, new enrollments for basic coverage will cease. Enrollees in the basic plan at that time may continue their enrollment for basic coverage, subject to the applicable premium and eligibility provisions, as long as the contract administering that coverage is in effect. Enrollees in the basic plan will be allowed an enrollment option at the time the enhanced plan is implemented.

### III. Other Provisions of the Interim Final Rule

One of the aims of the interim final rule is to allow flexibility in the design of an enhanced benefit structure that will help keep the increase in premiums within a reasonable range with the addition of the major dental coverage. This takes into account the increase in premiums not only for the increased benefits but the potential increase due to the risk of adverse selection. Adverse selection is the tendency for people who have a greater-than-average likelihood of needing treatment to seek coverage more than those who have a lesser likelihood of needing treatment. Accordingly, the interim final rule provides for renewal enrollment periods of up to 12 months per period for the enhanced benefits, thereby allowing the risk to be spread over a greater period of time than the month-to-month continuing enrollment for the basic coverage. Renewal for the basic program continues to be on a monthly basis. To offset the longer renewal periods, the rule allows a flexibility in the initial enrollment period for the enhanced benefits by permitting it to be in the range of from 12 to 24 months, the exact length to be determined through contractual arrangement. The initial enrollment period for the basic program will continue to be 24 months.

In addition, the interim final rule allows the establishment of an alternative course of treatment policy as in the TFMDDP, adds a provision for orthodontic lifetime maximum should an orthodontic benefit be offered, and removes the specific dollar limit on the non-orthodontic annual benefit maximum while retaining the requirement for an annual maximum

benefit amount. These changes are being made to permit more flexibility in the design and implementation of an enhanced TRDP benefit structure and allow ways to mitigate the increased risk for adverse selection and unacceptably high premiums that are likely to occur with the addition of major coverage.

Recognizing that occasionally some enrollees experience "buyer's remorse" shortly after enrolling in the program, this rule adds a 30-day grace period that allows new enrollees to terminate a TRDP enrollment immediately after enrollment provided no benefits have been used. This is consistent with the legislative mandate that the retiree dental plan be voluntary and provides enrollees an opportunity to further consider their dental needs before they are obligated for the initial enrollment period.

### IV. Rulemaking Procedures

Executive Order 12866 requires certain regulatory assessments for any "significant regulatory action," defined as one that would result in an annual effect on the economy of \$100 million or more, or 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 rule is not a significant regulatory action under the provisions of Executive Order 12866, and it would not have a significant impact on a substantial number of small entities.

This rule will not impose additional information collection requirements on the public under the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The TRICARE Retiree Dental Program Enrollment Form currently in use received approval from the Office of Management and Budget (OMB) in January 1998 under OMB Number 0720-0015. That approval expires January 31, 2001.

To implement enhanced benefits in the retiree dental program in a timely manner, this rule is being issued as an interim final rule, with comment period. This is an exception to our standard practice of soliciting public comments prior to issuance. The Assistant Secretary of Defense (Health Affairs) has determined for good cause that following the standard practice in this case would be impracticable, unnecessary, and contrary to the public interest. This determination is based on

several factors. First, the government has no financial interest at stake that could be impacted by rulemaking. The TRDP is distinctly different and administratively separate from other TRICARE programs. It is open to all Uniformed Services retirees regardless of age and is completely funded by enrollees' premiums. Secondly, although no appropriated funds are involved in this program, the Department maintains a fiduciary duty to act in the best interest of the intended beneficiaries (retirees). Retirees will be financially disadvantaged by delay in adding coverage of the major dental procedures to the TRDP. The more quickly this rule is put into effect, the more quickly retirees can receive the additional coverage at a reasonable premium rate. Lastly, this change directly implements a statutory amendment enacted by Congress expressly for this purpose. Interested persons are invited to comment on this rule during the 60-day public comment period. All written comments timely received will be carefully considered prior to finalization of this rule. A discussion of the major issues received by public comments will be included with the issuance of the final rule, anticipated approximately 90 days after the end of the comment period.

### List of Subjects in 32 CFR Part 199

Claims, Dental Health, Health insurance, Individuals with disabilities, Military personnel.

Accordingly, 32 CFR Part 199 is 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 199.22 is amended by revising paragraphs (b)(1), (d)(4), (d)(5), (f) introductory text, (f)(1) introductory text, (f)(2), and paragraph (g) and adding paragraph (f)(3) to read as follows:

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

\* \* \* \* \*

(b) \* \* \*

(1) At a minimum, benefits are the diagnostic services, preventive services, basic restorative services (including endodontics), oral surgery services, and emergency services specified in paragraph (f)(1) of this section. Additional services comparable to those contained in § 199.13(e)(2) of this part may be covered pursuant to benefit

policy decisions made by the Director, OCHAMPUS, or designee.

\* \* \* \* \*

(d) \* \* \*

**(4) Enrollment periods.**

**(i) Enrollment period for basic benefits.** The initial enrollment for the basic dental benefits described in paragraph (f)(1) of this section shall be for a period of 24 months followed by month-to-month enrollment as long as the enrollee remains eligible and chooses to continue enrollment. An enrollee's disenrollment from the TRDP at any time for any reason, including termination for failure to pay premiums, is subject to a lockout period of 12 months. After any lockout period, eligible individuals may elect to reenroll and are subject to a new initial enrollment period. The enrollment periods and conditions stipulated in this paragraph apply only to the basic benefit coverage described in paragraph (f)(1) of this section. Effective with the implementation of an enhanced benefit program, new enrollments for basic coverage will cease. Enrollees in the basic program at that time may continue their enrollment for basic coverage, subject to the applicable provisions of this section, as long as the contract administering the coverage is in effect.

**(ii) Enrollment period for enhanced benefits.** The initial enrollment period for enhanced benefit coverage described in paragraph (f)(2) shall be established by the Director, OCHAMPUS, or designee, when such coverage is offered, to be a period of not less than 12 months and not more than 24 months. The initial enrollment period shall be followed by renewal periods of up to 12 months as long as the enrollee chooses to continue enrollment and remains eligible. An enrollee's disenrollment from the TRDP during an enrollment period for any reason, including termination for failure to pay premiums, is subject to a lockout period of 12 months. This lockout provision does not apply to disenrollment during an enrollment grace period as defined in paragraph (d)(5)(ii) of this section or following completion of an initial or renewal enrollment period. Eligible individuals who elect to reenroll following a lockout period or a disenrollment after completion of an enrollment period are subject to a new initial enrollment period.

**(5) Termination of coverage.**

**(i) Involuntary termination.** TRDP 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 a surviving spouse remarries.

**(ii) Voluntary termination.** Regardless of the reason, TRDP coverage shall be cancelled, or otherwise terminated, upon written request from an enrollee if the request is received by the TRDP contractor within thirty (30) calendar days following the enrollment effective date and there has been no use of TRDP benefits by the enrolled member, enrolled spouse, or enrolled dependents during that period. If such is the case, the enrollment is voided and all premium payments are refunded. However, use of benefits during this 30-day enrollment grace period constitutes acceptance by the enrollee of the enrollment and the enrollment period commitment. In this case, a request for voluntary disenrollment before the end of the initial enrollment period will not be honored, and premiums will not be refunded.

\* \* \* \* \*

**(f) Plan benefits.** The Director, OCHAMPUS, or designee, may modify the services covered by the TRDP to the extent determined appropriate based on developments in common dental care practices and standard dental programs. In addition, the Director, OCHAMPUS, or designee, may establish such exclusions and limitations as are consistent with those established by dental insurance and prepayment plans to control utilization and quality of care for the services and items covered by the TRDP.

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

\* \* \* \* \*

**(2) Enhanced benefits.** In addition to the minimum TRDP services in paragraph (f)(1) of this section, other services that are comparable to those contained in § 199.13 (e)(2) may be covered pursuant to TRDP benefit policy decisions made by the Director, OCHAMPUS, or designee. In general, these include additional diagnostic and preventive services, major restorative services, prosthodontics (removable and fixed), additional oral surgery services, orthodontics, and additional adjunctive general services (including general anesthesia and intravenous sedation). Enrollees in the basic plan will be given

an enrollment option at the time the enhanced plan is implemented.

**(3) Alternative course of treatment policy.** The Director, OCHAMPUS, or designee, may establish, in accordance with generally accepted dental benefit practices, an alternative course of treatment policy which provides reimbursement in instances where the dentist and TRDP enrollee select a more expensive service, procedure, or course of treatment than is customarily provided. The alternative course of treatment policy must meet the following conditions:

**(i)** The service, procedure, or course of treatment must be consistent with sound professional standards of generally accepted dental practice for the dental condition concerned.

**(ii)** The service, procedure, or course of treatment must be a generally accepted alternative for a service or procedure covered by the TRDP for the dental condition.

**(iii)** Payment for the alternative service or procedure may not exceed the lower of the prevailing limits for the alternative procedure, the prevailing limits or dental plan contractor's scheduled allowance for the otherwise authorized benefit procedure for which the alternative is substituted, or the actual charge for the alternative procedure.

**(g) Maximum coverage amounts.** Each enrollee is subject to an annual maximum coverage amount for non-orthodontic dental benefits and, if an orthodontic benefit is offered, a lifetime maximum coverage amount for orthodontics as established by the Director, OCHAMPUS, or designee.

Dated: August 8, 2000.

**L.M. Bynum,**

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

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## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 100

[CGD05-00-032]

RIN 2115-AE46

#### Special Local Regulations for Marine Events; Chesapeake Challenge, Patapsco River, Baltimore, MD

**AGENCY:** Coast Guard, DOT.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is adopting temporary special local regulations