

(65 FR 67249 (Nov. 9, 2000)), and determined that it does not have “tribal implications” as defined in that order. This rule does not have substantial direct effects on one or more Indian tribes, on the relationship between the federal government and Indian tribes, or on the distribution of power and responsibilities between the federal government and Indian tribes.

#### List of Subjects in 29 CFR Part 1926

Cranes and derricks, Construction industry, Electric power, Occupational safety and health.

#### Authority and Signature

David Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Ave. NW., Washington, DC 20210, authorized the preparation of this notice. OSHA is issuing this final rule under the following authorities: 29 U.S.C. 653, 655, 657; 40 U.S.C. 3701 *et seq.*; 5 U.S.C. 553; Secretary of Labor’s Order No. 1–2012 (77 FR 3912, Jan. 25, 2012); and 29 CFR part 1911.

Signed at Washington, DC, on May 22, 2013.

**David Michaels**

*Assistant Secretary of Labor for Occupational Safety and Health.*

#### Amendments to Standards

For the reasons stated in the preamble of this rule, OSHA amends 29 CFR part 1926 as follows:

#### PART 1926—[AMENDED]

##### Subpart V—Power Transmission and Distribution

- 1. Revise the authority citation for subpart V to read as follows:

**Authority:** 40 U.S.C. 3701; 29 U.S.C. 653, 655, 657; Secretary of Labor’s Order Nos. 12–71 (36 FR 8754); 8–76 (41 FR 25059); 9–83 (48 FR 35736), 1–90 (55 FR 9033), 5–2007 (72 FR 31159), or 1–2012 (77 FR 3912), as applicable. Section 1926.951 also is issued under 29 CFR part 1911.

- 2. Amend § 1926.952 by revising paragraph (c)(2) to read as follows:

#### § 1926.952 Mechanical equipment.

\* \* \* \* \*

(c) \* \* \*

(2) Use of digger derricks must comply with § 1910.269 (in addition to 29 CFR part 1926, subpart O) whenever 29 CFR part 1926, subpart CC, excludes such use in accordance with § 1926.1400(c)(4).

\* \* \* \* \*

##### Subpart CC—Cranes and Derricks in Construction

- 3. Revise the authority citation for subpart CC to read as follows:

**Authority:** 40 U.S.C. 3701; 29 U.S.C. 653, 655, 657; and Secretary of Labor’s Order No. 5–2007 (72 FR 31159) or 1–2012 (77 FR 3912), as applicable; and 29 CFR part 1911.

- 4. Amend § 1926.1400 by revising paragraph (c)(4) to read as follows:

#### § 1926.1400 Scope.

\* \* \* \* \*

(c) \* \* \*

(4) Digger derricks when used for augering holes for poles carrying electric or telecommunication lines, placing and removing the poles, and for handling associated materials for installation on, or removal from, the poles, or when used for any other work subject to subpart V of this part. To be eligible for this exclusion, digger-derrick use in work subject to subpart V of this part must comply with all of the provisions of that subpart, and digger-derrick use in construction work for telecommunication service (as defined at § 1910.268(s)(40)) must comply with all of the provisions of § 1910.268.

\* \* \* \* \*

[FR Doc. 2013–12665 Filed 5–28–13; 8:45 am]

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#### DEPARTMENT OF DEFENSE

##### Office of the Secretary

##### 32 CFR Part 199

RIN 0720–AB48

[Docket ID: DOD–2011–HA–0029]

##### TRICARE Young Adult

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

**ACTION:** Final rule.

**SUMMARY:** This final rule implements Section 702 of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 (NDAA for FY11). It establishes the TRICARE Young Adult (TYA) program to provide an extended TRICARE Program coverage opportunity to most unmarried children under the age of 26 of uniformed services sponsors. The TYA program is a premium-based program.

**DATES:** This rule is effective June 28, 2013.

##### FOR FURTHER INFORMATION CONTACT:

Mark Ellis, TRICARE Management Activity, TRICARE Policy and Operations Directorate, 7700 Arlington Boulevard, Suite 5101, Falls Church, VA 22042–5101, telephone (703) 681–0039.

#### SUPPLEMENTARY INFORMATION:

##### I. Introduction and Background

###### A. Overview

An interim final rule was published in the **Federal Register** on April 27, 2011 (76 FR 23479–23485) that established the TYA program by implementing Section 702 of the Ike Skelton NDAA for FY 2011 (Pub. L. 111–383). The TYA program provides TRICARE Program coverage to unmarried children under the age of 26 of TRICARE-eligible sponsors who no longer meet the age requirements for TRICARE eligibility (age 21, or 23 if enrolled in a full-time course of study at an approved institution of higher learning, and the sponsor provides more than 50 percent of the student’s financial support), and who are not eligible for medical coverage from an eligible employer-sponsored plan based on their individual employment status (as defined in section 5000A(f)(2) of the Internal Revenue Code of 1986). If qualified, they can purchase TRICARE Standard/Extra or TRICARE Prime benefits coverage. The particular TRICARE option available depends on the uniformed service sponsor’s eligibility and the availability of the TRICARE option in the dependent’s geographic location.

###### B. Public Comments

The interim final rule was published in the **Federal Register** on April 27, 2011. One online comment was received via [www.regulations.gov](http://www.regulations.gov). We thank the commenter for the comments. Specific matters raised by those comments are summarized below.

##### II. Provisions of the Rule Regarding the TYA Program

###### A. Establishment of the TYA Program (§ 199.26(a))

**1. Provisions of Interim Final Rule.** This paragraph describes the nature, purpose, statutory basis, scope, and major features of TYA, a full cost, premium-based TRICARE Program coverage made available for purchase worldwide. TYA is similar to young adult coverage under the Patient Protection and Affordable Care Act, but reflects a number of differences between TRICARE, a statutorily-created DoD health benefits program and typical civilian health care plans. Among these is that TYA is a full cost premium based program; it is limited to unmarried dependent children of TRICARE-eligible sponsors; and the dependent child must not be eligible for medical coverage from an eligible employer-sponsored plan based on their individual

employment status (an exclusion that does not expire on January 1, 2014, but is permanent). TYA is codified in Title 10, United States Code, Section 1110b.

The major features of the program include making TYA coverage available for purchase at a premium which will represent the full cost, including reasonable administrative costs, as determined on an appropriate actuarial basis for coverage. There will be various premiums depending on whether the dependent's sponsor is active duty, retired, or eligible under another option such as TRICARE Reserve Select (TRS) or TRICARE Retired Reserve (TRR), and the adult dependent's desired health coverage—TRICARE Standard/Extra or, for those eligible and where available, TRICARE Prime. The rules and procedures otherwise outlined in Part 199 of 32 CFR which implements Chapter 55 of Title 10, U.S. Code, relating to the operation and administration of the TRICARE program based on the sponsor's status and health coverage plan will apply for cost-shares, deductibles, and catastrophic caps upon purchasing TYA coverage. Young adult dependents of members on active duty orders written, or otherwise continuous, for more than 30 days are eligible for benefits under the TRICARE Extended Care Health Option (ECHO) program under § 199.5 of this Part. The TRICARE Dental Program (§ 199.13 of this Part) and the TRICARE Retiree Dental Program (§ 199.22 of this Part) are not included as part of TYA.

Under TYA, qualified young adult dependents may purchase individual TRICARE Program coverage by submitting a completed request in the appropriate format along with an initial payment of the applicable premium at the time of enrollment. When TRICARE Program coverage becomes effective, a TYA purchaser receives the TRICARE benefits according to the rules governing the TRICARE Program that the dependent qualified for and selected based on the uniformed services sponsor's status (active duty, retired, Selected Reserve, or Retired Reserve) and the availability of a desired TYA option in his or her geographic location. The rules and procedures otherwise outlined in the TRICARE Regulation (Part 199) relating to the operation and administration of the TRICARE programs will apply for cost-shares, deductibles, and catastrophic caps upon purchasing TYA coverage. The young adult dependent's cost-shares, deductibles, and catastrophic caps will be based on the sponsor's status (active duty, retired, Selected Reserve, or Retired Reserve) and whether the dependent has purchased TRICARE

Standard/Extra or Prime coverage. TYA dependents are provided access priority for care in military treatment facilities based on their uniformed services sponsor's status and the selection of a TYA option.

The Continued Health Care Benefits Program (CHCBP) (see § 199.20) shall be made available to all young adult dependents after aging out of the TYA program or who otherwise lose their eligibility for the TYA program, whether due to a change in the status of the young adult and/or the status of their sponsor. CHCBP participants are not eligible for military treatment facility (MTF) care other than in emergencies.

**2. Analysis of Major Public Comments:** One comment noted support for the TYA program because it will undoubtedly increase health insurance coverage for those who may have gone uninsured.

**Response:** We acknowledge the commenter's statement as consistent with the purposes of the TYA program.

**3. Provisions of the Final Rule.** In § 199.26(a), we clarified that the uniformed service sponsors must be TRICARE eligible to qualify their eligible dependents to purchase TYA coverage. We also clarified the criteria for TRICARE eligibility up to the age of 23.

In § 199.26(a)(4)(i)(D), we deleted a potentially misleading reference to § 199.3 of this Part. Eligibility and qualifications for the TYA program as defined in § 199.3 of this Part will be clarified in § 199.26(b).

We clarified in § 199.26(a)(4)(i)(D)(2) that TRICARE Prime coverage may be available for purchase by dependents of sponsors who are retired members if otherwise qualified, but not dependents of sponsors who are in the Retired Reserve if their sponsor participates in TRR. Dependents of retired members in the Retired Reserve are only eligible to purchase TRICARE Standard/Extra coverage. Also, it was an error to state that the retired member must be eligible for a TRICARE Prime plan as a qualification for the young adult dependent to be eligible to purchase TRICARE Prime coverage. Dependents of retired members other than members of the Retired Reserve may purchase TRICARE Prime coverage if otherwise qualified even if the retired sponsor is not eligible for or enrolled in TRICARE Prime.

#### **B. Qualifications for TYA coverage (§ 199.26(b))**

**1. Provisions of the Interim Final Rule.** This paragraph defines the statutory conditions under which unmarried children of TRICARE-eligible

sponsors qualify as young adult dependents under the TYA program. To qualify as a young adult dependent, the dependent must be under the age of 26, not be otherwise eligible for another TRICARE Program, and not be eligible for medical coverage from an eligible employer-sponsored plan based on their individual employment status (as defined in section 5000A(f)(2) of the Internal Revenue Code of 1986). The dependents' sponsor is responsible for keeping the Defense Enrollment Eligibility Reporting System (DEERS) current with eligibility data through the sponsor's Service personnel office. Using information from the DEERS, TRICARE contractors have the responsibility to validate a dependent's qualifications to purchase TYA coverage.

**2. Analysis of Major Public Comments.** No public comments were received relating to this section of the rule.

**3. Provisions of the Final Rule.** In § 199.26(b)(1)(i), we clarified that former dependents under the Transitional Compensation Program (TCP) under 10 U.S.C 1059 as defined in § 199.3(b)(2)(iii) of this Part are not eligible to purchase TYA coverage because TRICARE coverage for these former dependents under the TCP is not authorized by chapter 55 of title 10 United States Code (U.S.C.), nor by section 1145a of 10 U.S.C., but rather by section 1059 of 10 U.S.C.

In that same paragraph, we clarify that dependents of North Atlantic Treaty Organization (NATO) sponsors as defined in § 199.3(a) of this Part are not eligible to purchase TYA coverage because NATO treaties do not specifically address young adult coverage.

#### **C. TYA premiums (§ 199.26(c))**

**1. Provisions of Interim Final Rule.** Qualified young adult dependents are charged premiums for coverage under TYA that represent the full cost of providing TRICARE benefits under this program, including the reasonable costs of administration of the program. The total annual premium amounts shall be determined by the Assistant Secretary of Defense for Health Affairs (ASD(HA)) using an appropriate actuarial basis and are established and updated annually, on a calendar year basis, by the ASD(HA) for qualified young adult dependents. A premium shall be charged for each individual qualified young adult dependent regardless of whether a sponsoring member has more than one young adult dependent child who qualifies or purchases coverage under the TYA program. The cost shares

for TRICARE Standard/Extra or Prime programs in which the adult child is enrolled shall be based on the status of the dependent's sponsor. Because of the differences in cost-shares among the programs and status of the sponsor, there will be a different premium for TRICARE Standard/Extra and TRICARE Prime, including the Uniformed Services Family Health Plan. Premiums are to be paid monthly. The monthly rate for each month of a calendar year is one-twelfth of the annual rate for that calendar year.

The appropriate actuarial basis used for calculating premium rates shall be one that most closely approximates the actual cost of providing care to the same demographic population as those enrolled in TYA as determined by the ASD(HA). TYA premiums shall be based on the actual costs of providing benefits to TYA dependents during the preceding years if the population of young adult dependents enrolled in TYA is large enough during those preceding years to be considered actuarially appropriate. Until such time that actual costs from those preceding years become available, TYA premiums shall be based on the actual costs during the preceding calendar years for providing benefits to the population of dependents over the age 21 until reaching age 26 in order to make the underlying group actuarially appropriate. An adjustment may be applied to cover overhead costs for administration of the program by the government. Additionally, premium adjustments may be made to cover the prospective costs of any significant program changes.

**2. Analysis of Major Public Comments.** No public comments were received relating to this section of the rule.

**3. Provisions of the Final Rule.** The final rule is consistent with the interim final rule.

#### *D. Procedures (§ 199.26(d))*

**1. Provisions of Interim Final Rule.** The Director, TRICARE Management Activity (TMA) will establish procedures for administration of TYA. These will include procedures to purchase individual coverage, such as a request in an approved format, along with an initial payment of the applicable premium. Applicants must also certify that they meet the statutory qualifications to purchase coverage under this program. Additional procedures will be established for a qualified young adult dependent to purchase TYA coverage with an effective date immediately following the last effective date of coverage under

which they previously qualified in another TRICARE option.

There will be open enrollment so that a qualified young adult dependent may purchase TYA coverage at any time. The effective date of coverage for TRICARE Standard/Extra will coincide with the first day of a month after the date the application and required payment is received. The effective date of coverage for TRICARE Prime will be the first day of the second month after the month in which application and required payment is received. There will be a limited period for retroactive coverage. A qualified young adult dependent may elect to start coverage under the TRICARE Standard/Extra plan effective with the statutory start date of January 1, 2011, if the dependent was eligible as of that date. If retroactive coverage is elected then retroactive premiums must be paid back to the statutory start date of January 1, 2011. If no retroactive coverage is elected or the retroactive premiums are not paid within the time prescribed, then coverage will not be retroactive and coverage will apply only prospectively beginning on the first day of the month after the date of the application. There shall be no retroactive coverage offered under any TRICARE Prime plan. No purchase of retroactive coverage may take place after September 30, 2011.

With respect to termination of coverage, a loss of eligibility or entitlement for medical benefits of the sponsor will result in termination of coverage for the dependent's TYA coverage on the same date as the sponsor, unless otherwise authorized. Upon the death of an active duty sponsor, young adult dependents may purchase TYA coverage until reaching age 26. If a Selected Reserve (Sel Res) or Retired Reserve member ends TRS or TRR coverage, respectively, eligibility for the young adult dependent to purchase coverage under TYA also ends. If a Sel Res sponsor dies while enrolled in TRS, the otherwise eligible young adult dependent can purchase TYA coverage up to 6 months after the death of the sponsor. If a Retired Reserve sponsor dies while enrolled in TRR, the otherwise eligible young adult dependent may continue to purchase TYA coverage until the date on which the deceased sponsor would have turned age 60. If the Retired Reserve sponsor was not enrolled in TRR at the time of death, there is no eligibility to purchase TYA coverage until the sponsor would have turned age 60. As of the date on which the deceased retired sponsor would have turned age 60, the young adult dependent qualifies as a survivor of a deceased retired

sponsor and can purchase TYA coverage until reaching age 26. Coverage will terminate whenever a dependent ceases to meet the qualifications for the program. Claims will be denied effective with the termination date. In addition, covered dependents may terminate coverage at any time by submitting a completed request in the appropriate format. Dependents whose coverage under TYA terminates for failure to pay premiums in accordance with program requirements will not be allowed to purchase coverage again under TYA for a period of one year following the date of their coverage termination. This ineligibility period shall be known as a "lockout" period. A request for a waiver of the "lockout" period may be granted by the Director, TRICARE Management Activity, based on extraordinary circumstances beyond the control of the young adult dependent which resulted in inability to make payments in accordance with program requirements. The Director may allow a 90-day grace period for payment to be made. However, if payment is not made by the 90th day, then coverage will be deemed to have terminated as of the last day of the month in which an appropriate payment was made and no claims may be paid for care rendered after the date of termination. Upon termination of eligibility to purchase TYA coverage, qualified dependents may purchase coverage under the CHCBP for up to 36 months except if locked out of TYA. Upon application and payment of appropriate premiums, a young adult dependent who has already purchased coverage under any of the options offered under TYA may change to another TRICARE option for which the dependent is eligible. Eligibility is based on the sponsor's status and the dependent's geographic location.

**2. Analysis of Major Public Comments.** No public comments were received relating to this section of the rule.

**3. Provisions of the Final Rule.** In § 199.26(d)(2)(i)(A), we deleted eligibility to purchase TYA coverage by former dependents in the Transitional Compensation Program under 10 U.S.C 1059 and under § 199.3(b)(2)(iii) of this Part. We added eligibility to purchase TYA coverage for dependents of former active duty members covered under the Transitional Assistance Management Program (TAMP) who are otherwise qualified.

We added a new § 199.26(d)(2)(iii) to add that young adult dependents currently enrolled in TYA may have their TRICARE coverage terminated when the sponsor's status changes (for example, from active duty to retired

status). Young adult dependents have 30 thirty days to re-establish their TYA coverage without a break in coverage and must re-qualify for TYA coverage for which they are then eligible.

In § 199.26(d)(2) and subordinate paragraphs, we clarified the rule that procedures may be established for TYA coverage to be suspended up to one year followed by final termination for young adult dependents if they fail to make premium payments in accordance with established procedures or otherwise request suspension/termination of coverage. Procedures may be established for the suspension to be lifted upon request before final termination is applied. Procedures may also be established for the suspension to be lifted upon request for undue hardship as defined by § 199.26(g) before final termination is applied.

In § 199.26(d)(5), we added that upon a change in sponsor status, young adult dependents currently enrolled in TYA coverage may have their coverage automatically transferred to another TRICARE option consistent with the sponsor's new status. Recurring TYA premiums may be automatically adjusted by the servicing contractor.

#### *E. Preemption of State Laws* (§ 199.26(e))

1. *Provisions of Interim Final Rule.* This paragraph provides that the preemptions of State and local laws established for the TRICARE program also apply to TYA. Any State or local law or regulation pertaining to health insurance, prepaid health plans, or other health care delivery, administration, and financing methods is preempted and does not apply in connection with TYA.

2. *Analysis of Major Public Comments.* No public comments were received relating to this section of the rule.

3. *Provisions of the Final Rule.* The final rule is consistent with the interim final rule.

#### *F. Administration* (§ 199.26(f))

1. *Provisions of Interim Final Rule.* This paragraph provides that the Director, TRICARE Management Activity, may establish other administrative processes and procedures necessary for the effective administration of TYA.

2. *Analysis of Major Public Comments.* No public comments were received relating to this section of the rule.

3. *Provisions of the Final Rule.* The final rule is consistent with the interim final rule.

#### *G. Terminology* (§ 199.26(g))

1. *Provisions of Interim Final Rule.* New paragraph.

2. *Analysis of Major Public Comments.* No public comments were received relating to this section of the rule.

3. *Provisions of the Final Rule.* Added definition of undue hardship as it relates to suspension and termination of TYA coverage.

### III. Regulatory Procedures

#### **Executive Order 12866, "Regulatory Planning and Review" and Executive Order 13563, "Improving Regulation and Regulatory Review"**

Executive Orders 12866 and 13563 require certain regulatory assessments for any significant regulatory action that would result in an annual effect on the economy of \$100 million or more, or have other substantial impacts. This rule will not. This final rule will not have an impact on the economy greater than \$100 million annually.

#### **Congressional Review Act**

The Congressional Review Act establishes certain procedures for major rules, defined as those with similar major impacts. This final rule will not have a major impact as that term is used under the Congressional Review Act.

#### **Section 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 section, of \$100 million in any one year.

#### **Public Law 96-354, "Regulatory Flexibility Act"**

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 that would have significant impact on a substantial number of small entities. This final rule will not have a significant impact on a substantial number of small entities.

#### **Paperwork Reduction Act of 1995**

This rule will impose additional information collection requirements on the public under the under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) in the form of a TYA application form. Comments were solicited via the interim final rule published on April 27, 2011 (76 FR 23479-23485). No comments were

received. OMB approved the TYA application form and assigned the collection of information OMB Control Number 0720-0049.

#### **Executive Order 13132, "Federalism"**

We have examined the impact(s) of the final 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. The preemption provisions in the rule conform to law and long-established TRICARE policy. Therefore, consultation with State and local officials is not required.

#### **List of Subjects in 32 CFR Part 199**

Claims, Handicapped, Health insurance, and 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 199.26 is revised to read as follows:

#### **§ 199.26 TRICARE Young Adult.**

(a) *Establishment.* The TRICARE Young Adult (TYA) program offers the medical benefits provided under the TRICARE Program to qualified unmarried adult children of TRICARE-eligible uniformed service sponsors who do not otherwise have eligibility for medical coverage under a TRICARE Program at age 21 (23 if enrolled in a full-time course of study at an approved institution of higher learning, and the sponsor provides over 50 percent of the student's financial support), and are under age 26.

(1) *Purpose.* As specified in paragraph (c) of this section, TYA is a premium-based health option that is available for purchase by any qualified adult child as that term is defined in paragraph (b) of this section. The TYA program allows a qualified adult child to purchase TRICARE coverage.

(2) *Statutory authority.* TYA is authorized by 10 U.S.C. 1110b.

(3) *Scope of the program.* TYA is geographically applicable to the same extent as specified in § 199.1(b)(1).

(4) *Major features of TYA.* (i) *TRICARE rules applicable.*

(A) Unless specified in this section or otherwise prescribed by the Assistant Secretary of Defense (Health Affairs)

(ASD (HA)), provisions of this part apply to TYA.

(B) The TRICARE Dental Program (§ 199.13) and the TRICARE Retiree Dental Program (§ 199.22) are not covered under TYA.

(C) TRICARE Standard is available to all TYA-eligible young adult dependents. TYA enrollees in TRICARE Standard may use TRICARE Extra (under § 199.17(e)).

(D) TRICARE Prime is available to TYA-eligible young adult dependents, provided that TRICARE Prime (including the Uniformed Services Family Health Plan) is available in the geographic location where the TYA enrollee resides. This applies to TYA-eligible:

(1) Dependents of sponsors on active duty orders written, or otherwise continuously, for more than 30 days or covered by TAMP (under § 199.3(e));

(2) Dependents of sponsors who are retired members other than retired members of the Retired Reserve; and

(3) Survivors of members who died while on active duty for more than 30 days or while receiving retired or retainer pay.

(ii) *Premiums.* TYA coverage is a premium based program that an eligible young adult dependent may purchase. There is only individual coverage, and a premium shall be charged for each dependent even if there is more than one qualified dependent in the uniformed service sponsor's family that qualifies for TYA coverage. Dependents qualifying for TYA status can purchase individual TRICARE Standard/Extra or TRICARE Prime coverage (as applicable) according to the rules governing the TRICARE option for which they are qualified on the basis of their uniformed service sponsor's TRICARE-eligible status (active duty, retired, Selected Reserve, or Retired Reserve) and the availability of a desired option in their geographic location. Premiums shall be determined in accordance with paragraph (c) of this section.

(iii) *Procedures.* Under TYA, qualified dependents under paragraph (b) of this section may purchase individual TYA coverage by submitting a completed request in the appropriate format along with an initial payment of the applicable premium. Procedures for purchasing coverage and paying applicable premiums are prescribed in paragraph (d) of this section.

(iv) *Benefits.* When their TYA coverage becomes effective, qualified beneficiaries receive the benefit of the TRICARE option that they selected, including, if applicable, access to military treatment facilities and pharmacies. TYA coverage features the

per service cost share, deductible and catastrophic cap provisions based on program selected, i.e., the TRICARE Standard/Extra program or the TRICARE Prime program, as well as the status of their military sponsor. Access to military treatment facilities under the system of access priorities in § 199.17(d)(1) is also based on the program selected as well as the status of the military sponsor. Premiums are not credited to deductibles or catastrophic caps.

(v) *Transition period.* During fiscal year 2011, the TYA program will include only TRICARE Standard program coverage.

(b) *Eligibility for TRICARE Young Adult coverage.*—(1) *Young Adult Dependent.* A young adult dependent qualifies to purchase TYA coverage if the dependent meets the following criteria:

(i) Would be a dependent child under 10 U.S.C. 1072, but for exceeding the age limit under that section (abused dependents and NATO dependents are not eligible for TYA coverage); and

(ii) Is a dependent under the age of 26; and

(iii) Is not enrolled, or eligible to enroll, for medical coverage in an eligible employer-sponsored health plan as defined in section 5000A(f)(2) of the Internal Revenue Code of 1986; and

(iv) Is not otherwise eligible under § 199.3; and

(v) Is not a member of the uniformed services.

(2) The dependents' sponsor is responsible for keeping the Defense Enrollment Eligibility Reporting System (DEERS) current with eligibility data through the sponsor's Service personnel office. Using information from the DEERS, the TRICARE regional contractors have the responsibility to validate a dependent's qualifications to purchase TYA coverage.

(c) *TRICARE Young Adult premiums.* Qualified young adult dependents are charged premiums for coverage under TYA that represent the full cost of the program, including reasonable administrative costs, as determined by the ASD(HA) utilizing an appropriate actuarial basis for the provision of TRICARE benefits for the TYA-eligible beneficiary population. Separate premiums shall be established for TRICARE Standard and Prime plans. There may also be separate premiums based on the uniformed services sponsor's status. Premiums are to be paid monthly. The monthly rate for each month of a calendar year is one-twelfth of the annual rate for that calendar year.

(1) *Annual establishment of rates.*—(i) Monthly premium rates shall be

established and updated annually on a calendar year basis by the ASD(HA) for TYA individual coverage.

(ii) The appropriate actuarial basis used for calculating premium rates shall be one that most closely approximates the actual cost of providing care to a similar demographic population (based on age and health plans) as those enrolled in TYA, as determined by the ASD(HA). TYA premiums shall be based on the actual costs of providing benefits to TYA dependents during the preceding years if the population of TYA enrollees is large enough during those preceding years to be considered actuarially appropriate. Until such time that actual costs from those preceding years become available, TYA premiums shall be based on the actual costs during the preceding calendar years for providing benefits to the population of similarly aged dependents to make the underlying group actuarially appropriate. An adjustment may be applied to cover overhead costs for administration of the program.

(2) *Premium adjustments.* In addition to the determinations described in paragraph (c)(1) of this section, premium adjustments may be made prospectively for any calendar year to reflect any significant program changes mandated by legislative enactment, including but not limited to significant new programs or benefits.

(d) *Procedures.* The Director, TRICARE Management Activity may establish procedures for the following.

(1) *Purchasing coverage.* Procedures may be established for a qualified dependent to purchase individual coverage. To purchase TYA coverage for effective dates of coverage described below, qualified dependents must submit a request in the appropriate format, along with an initial payment of the applicable premium required by paragraph (c) of this section in accordance with established procedures.

(i) *Continuation coverage.* Procedures may be established for a qualified dependent to purchase TYA coverage with an effective date immediately following the date of termination of coverage under another TRICARE program. Application for continuation coverage must be made within 30 days of the date of termination of coverage under another TRICARE program.

(ii) *Open enrollment.* Procedures may be established for a qualified dependent to purchase TYA coverage at any time. The effective date of coverage will coincide with the first day of a month.

(iii) *Retroactive coverage.* A qualified young adult dependent may elect retroactive TRICARE Standard coverage effective as of January 1, 2011, if

dependent was eligible as of that date. If retroactive coverage is elected, retroactive premiums must be paid for the time period between January 1, 2011, and the date of the election. If no retroactive coverage is elected or the retroactive premiums are not paid within the time prescribed, coverage will not be retroactive and coverage will apply only prospectively under the procedures set forth for open enrollment. No purchase of retroactive coverage may take place after September 30, 2011. Coverage under TRICARE Prime may not be made retroactively.

(2) *Suspension and termination.* Procedures may be established for TYA coverage to be suspended and/or terminated as follows.

(i) Loss of eligibility or entitlement for coverage by the sponsor will result in termination of the dependent's TYA coverage unless otherwise specified. The effective date of the sponsor's loss of eligibility for care will also be the effective date of termination of benefits under the TYA program unless specified otherwise.

(A) *Active duty military sponsor.* TYA coverage ends effective the date of military sponsor's separation from military service, unless the dependent would be eligible under section 199.3(e) of this Part but for the dependent's age, for the duration of the Transitional Assistance Management Program (TAMP) eligibility or until reaching age 26, whichever comes first. Upon the death of an active duty sponsor, dependents eligible for Transitional Survivor coverage may purchase TYA coverage if otherwise qualified.

(B) *Selected Reserve (Sel Res) Sponsor.* Sel Res sponsors must be currently enrolled in TRICARE Reserve Select (TRS) before a young adult dependent is eligible to purchase TYA. If TRS coverage is terminated by the sponsor, TYA coverage ends effective the same termination date as the sponsor. If the Sel Res sponsor dies while enrolled in TRS, the young adult dependent is eligible to purchase TYA coverage for six months after the date of death of the Sel Res sponsor, if otherwise qualified.

(C) *Retired Reserve Sponsor.* Retired Reserve members not yet eligible for retired or retainer pay must be enrolled in TRICARE Retired Reserve (TRR) to establish TYA eligibility for their young adult dependents. If TRR coverage is terminated by the sponsor, the TYA coverage for the young adult dependent ends effective the same date as the sponsor's termination of coverage under TRR. If the retired reserve sponsor dies while enrolled in TRR, the young adult dependent may continue to purchase

TYA coverage until the date on which the deceased member would have attained age 60, if otherwise qualified. If the Retired Reserve member dies and is not enrolled in TRR, there is no eligibility for TYA coverage until the sponsor would have reached age 60. On the date the Retired Reserve member would have reached 60, a young adult dependent who otherwise qualifies for TYA qualifies as a dependent of a deceased retired sponsor and can purchase TYA coverage.

(ii) Failure of a young adult dependent to maintain the eligibility qualifications in paragraph (b) of this section shall result in the termination of coverage under the TYA program. The effective date of termination shall be the date upon which the adult young dependent failed to meet any of the prerequisite qualifications. If a subsequent change in circumstances re-establishes eligibility (such as losing eligibility for an eligible employer-sponsored plan), the young adult dependent may re-enroll for coverage under the TYA program.

(iii) Coverage may also be terminated due to a change in the sponsor's status, and the young adult dependent must re-qualify and reapply for TYA coverage within 30 days of termination to preclude a gap in coverage.

(iv) Termination of coverage results in denial of claims for services with a date of service after the effective date of termination.

(v) Coverage may be suspended and finally terminated for young adult dependents upon request at any time by submitting a completed request in the appropriate format in accordance with established procedures.

(vi) Coverage may be suspended and finally terminated for young adult dependents who fail to make premium payments within established procedures.

(vii) Under paragraph (d)(2)(v) or (d)(2)(vi) of this section, TYA coverage may be first suspended for a period up to one year followed by final termination. Procedures may be established for the suspension to be lifted upon request before final termination is applied. Procedures may also be established for the suspension to be lifted before final termination is applied upon request for undue hardship as defined by § 199.26(g).

(3) *Eligibility for the Continued Health Care Benefit Program.* Upon termination of eligibility to purchase TYA coverage, dependents may purchase coverage for up to 36 months through the Continued Health Care Benefit Program under § 199.20 unless locked out of TYA.

(4) *Changing coverage.* Upon application and payment of appropriate premiums, qualified dependents already enrolled in and who are current in their premium payments may elect to change to another TRICARE program for which the qualified dependent is eligible based on the sponsor's eligibility and the geographic location of the qualified young adult dependent. Upon change in sponsor status (for example, active duty to retired status), TYA coverage may be automatically transferred to the appropriate TRICARE option consistent with the sponsor's new status. Recurring TYA premiums may be adjusted accordingly. Administrative processes may be established for changes in program enrollment; however, no change shall be effective until the applicable premium has been paid.

(e) *Preemption of State laws.*—The preemption provisions of § 199.17(a)(7) are applicable to the TYA program.

(f) *Administration.* The Director, TRICARE Management Activity may establish other processes, policies and procedures for the effective administration of the TYA Program and may authorize exceptions to requirements of this section, if permitted by law.

(g) *Terminology.* The following term applies to the TYA program:

*Undue hardship.* This term involves a situation that the TYA dependent could neither have prevented nor avoided by taking reasonable and timely action. The ASD(HA) may provide further guidelines regarding use of this term.

Dated: May 10, 2013.

Patricia L. Toppings,  
OSD Federal Register Liaison Officer,  
Department of Defense.

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket Number USCG-2013-0276]

RIN 1625-AA00

### When Pigs Fly Fireworks Display; San Diego, CA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a safety zone on the navigable waters of the San Diego Bay in support of the When Pigs Fly Fireworks Display on June 11, 2013