2. Analysis of Major Public Comments

One commenter suggested that the final rule specify how resource sharing agreements will be established, how providers will be selected, which providers would qualify for resource sharing, and how internal disputes among practitioners would be resolved.

Response. We note that that resource sharing takes place in the context of regional managed care support contracts, established in support of TRICARE. These competitively procured contracts will be the vehicle for selection of providers participating in resource sharing programs, and disputes would be resolved through the contract mechanisms. Any services offered in MTFs or covered by CHAMPUS could, in concept, be subject to resource sharing; hence any CHAMPUS authorized provider category potentially could be part of the program if desired by the local military medical authorities.

3. Provisions of the Final Rule

The final rule is consistent with the proposed rule, except for a clarification of the circumstances under which services provided to Medicare beneficiaries are potentially reimbursable by Medicare: Medicare could pay civilian hospital charges in an external resource sharing circumstance.

I. Health Care Finder (Section 199.17(i))

1. Provisions of Proposed Rule

This paragraph establishes procedures for the Health Care Finder, an administrative office that assists beneficiaries in being referred to appropriate health care providers, especially the MTF and civilian network providers. Health Care Finder services are available to all beneficiaries.

2. Analysis of Major Public Comments

One commenter suggested that the health care finder should refer beneficiaries to both network and nonnetwork sources of care, as appropriate for the particular case, and that health care finder staff be experienced, so that beneficiaries may be properly directed.

Response. We do not foresee circumstances in which health care finders would routinely refer beneficiaries to non-network providers. It is in the beneficiary's interest to use a network provider, because of reduced cost sharing, guaranteed participation, and enhanced quality assurance provisions; it is also in the Government's interest to maximize use of network providers, whose services are provided at preferred rates. Of course, health care finders will attempt

to assist beneficiaries in finding nonnetwork sources if no network provider is available; this is likely to be an unusual occurrence, because networks typically will have the full range of CHAMPUS authorized services available.

Health care finder staff will be qualified in their areas of responsibility, often with Registered Nurses providing referral services and appropriately trained clerical staff providing administrative support and services.

3. Provisions of the Final Rule

The final rule is consistent with the proposed rule.

J. General Quality Assurance, Utilization Review, and Preauthorization Requirements (Section 199.17(j))

1. Provisions of Proposed Rule

This paragraph emphasizes that all requirements of the CHAMPUS basic program relating to quality assurance, utilization review, and preauthorization of care apply to the CHAMPUS component of Prime, Extra and Standard. These requirements and procedures may also be made applicable to MTF services.

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 proposed rule.

K. Pharmacy Services, Including Special Services in Base Realignment and Closure Sites (Section 199.17(k))

1. Provisions of Proposed Rule

This paragraph establishes two special pharmacy programs, a retail pharmacy network program and a mail service pharmacy program.

An important aspect of the mail service and retail pharmacy programs is that, under the authority of section 702 of the National Defense Authorization Act for Fiscal Year 1993, Pub. L. 102– 484, there is a special rule regarding eligibility for prescription services. The special rule is that Medicare-eligible beneficiaries, who are normally ineligible for CHAMPUS, are under certain special circumstances eligible for the pharmacy programs. The special circumstances are that they live in an area adversely affected by the closure of an MTF. A provision of the National Defense Authorization Act for Fiscal Year 1995 additionally provides eligibility for Medicare eligible beneficiaries who demonstrate that they

had been reliant on a former MTF for pharmacy services.

Under the rule, the area adversely affected by the closure of a facility is established as the catchment area of the treatment facility that closed. The catchment area is the existing statutory designation of the geographical area primarily served by an MTF. The catchment area is defined in law as "the area within approximately 40 miles of a medical facility of the uniformed services." Public Law 100-180, sec. 721(f)(1), 10 U.S.C.A. 1092 note. This is also the geographical basis in the law for nonavailability statements that authorized CHAMPUS beneficiaries who live within areas served by military hospitals to obtain care outside the military facility. 10 U.S.C. 1079(a)(7). Because the purpose of the special eligibility rule for Medicare-eligible beneficiaries is to replace the pharmacy services lost as a consequence of the base closure, and because the 40-mile catchment area is the only geographical area designation established by law to describe the beneficiaries primarily served by a military medical facility, we believe it most appropriate to adopt the established 40-mile catchment area for purposes of the applicability of the special eligibility rule for pharmacy services. Thus, under the rule, Medicare-eligible beneficiaries who live within the established 40-mile catchment area of a closed medical treatment facility are eligible to use the pharmacy programs if available in that

There are several noteworthy special rules regarding the area that will be considered adversely affected by the closure of an MTF. First, a 40-mile catchment area generally will apply in the case of the closure of a military clinic, as it does in the case of the closure of a hospital. Recognizing that there may be clinic closure cases involving very small clinics that were not providing any significant amount of pharmacy services to retirees, their family members and survivors, these cases will not be considered to be areas adversely affected by the closure of an MTF. The reason for this is simply that if the facility was not providing a significant amount of services, its closure will not have a noteworthy adverse effect in the area.

The Director, Office of CHAMPUS, may establish other procedures for the effective operation of the pharmacy programs, dealing with issues such as encouragement of the use of generic drugs for prescriptions and of appropriate drug formularies, as well as establishment of requirements for