

TRICARE Standard Plan. The health care option, provided as part of the TRICARE Program under § 199.17, under which beneficiaries are eligible for care in facilities of the uniformed services and CHAMPUS under standard rules and procedures.

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Uniform HMO benefit. The health care benefit established by § 199.18.

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Uniformed Services Treatment Facilities Managed Care Program. The managed care program established pursuant to section 718(c) of the National Defense Authorization Act for Fiscal Year 1991, Pub. L. 101-510, for certain former Public Health Service hospitals deemed to be facilities of the uniformed services by section 911 of the Military Construction Authorization Act, 1982, Pub. L. 97-99, 42 U.S.C. 248C. Certain rules pertaining to this program are established by § 199.18.

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4. Section 199.4 is proposed to be amended by redesignating paragraph (a)(1) as paragraph (a)(1)(i), by adding new paragraph (a)(1)(ii), by revising paragraph (a)(9)(i)(C), and by adding new paragraphs (a)(9)(vi) and (a)(9)(vii), to read as follows:

§ 199.4 Basic program benefits.

(a) * * *

(1) * * *

(ii) **Impact of TRICARE Program.** The basic program benefits set forth in this section are applicable to the basic CHAMPUS program. In areas in which the TRICARE Program is implemented, certain provisions of § 199.17 will apply instead of the provisions of this section. In those areas, the provisions of § 199.17 will take precedence over any provisions of this section with which they conflict.

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(i) * * *

(C) An NAS is also required for selected outpatient procedures if such services are not available at a Uniformed Service facility (including selected facilities which are exclusively outpatient clinics) located within a 40-mile radius (catchment area) of the residence of the beneficiary. This does not apply to emergency services or for services for which another insurance plan or program provides the beneficiary primary coverage. Any changes to the selected outpatient procedures will be published in the **Federal Register** at least 30 days before the effective date of the change by the ASD(HA) and will be limited to the following categories: Outpatient surgery

and other selected outpatient procedures which have high unit costs and for which care may be available in military facilities generally. The selected outpatient procedures will be uniform for all CHAMPUS beneficiaries. A list of the selected outpatient clinics to which this NAS requirement applies will be published periodically in the **Federal Register**.

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(vi) **Consideration of availability of care in civilian preferred provider networks in connection with issuance of Nonavailability Statements.**—(A) **General requirement.** With respect to any inpatient health care service subject to a Nonavailability Statement requirement under paragraph (a)(9)(B) of this section, in determining whether to issue a Nonavailability Statement, the commander of the military treatment facility may consider the availability of services from selected civilian health care facilities within the same catchment area. If the commander determines that, although the services are not available from a military treatment facility, the services are available from such a selected civilian facility, the commander may deny a Nonavailability Statement. If a Nonavailability Statement is denied on this basis, CHAMPUS cost sharing is not allowed if the services are not obtained from the designated civilian facility. Civilian facilities to which this requirement applies are those facilities that are in a preferred provider network, established under procedures specified by the Director, OCHAMPUS, within the 40-mile catchment area, able to provide the services needed.

(B) **Additional requirement under External Partnership/Resource Sharing programs.** The Assistant Secretary of Defense (Health Affairs) may designate selected military outpatient clinics for additional NAS requirements regarding inpatient hospital care available under an External Partnership or External Resources Sharing agreement. Under such an agreement, care will be provided at a civilian facility, but professional services will be provided by on or more physicians (or other individual health care providers) on staff at the military outpatient clinic. With respect to the designated military outpatient clinics and the specified services covered by such External Partnership or External Resource Sharing agreement, Nonavailability Statements will be required to the same extent as they are for inpatient military hospitals located within an approximately 40-mile radius of a beneficiary's residence. If services are

available under an External Partnership Resource Sharing agreement, the military clinic commander may deny a Nonavailability Statement. If a Nonavailability Statement is denied on this basis, CHAMPUS cost sharing is not allowed if the services are not obtained from the designated civilian facility under the External Partnership or External Resource Sharing agreement. A list of selected military outpatient clinics and services covered by the External Partnership or External Resource Sharing agreement NAS requirement will be published periodically in the **Federal Register**.

(C) **Exceptions.** A Nonavailability Statement may not be withheld on the basis of paragraphs (a)(9)(vi)(A) or (a)(9)(vi)(B) of this section in any of the following circumstances:

(1) A case-by-case waiver is granted based on a medical judgment made by the commander (or other official designated for this purpose) of the military treatment facility (or Specialized Treatment Service Center) that although the care is available from a designated civilian provider, it would be medically inappropriate because of a delay in the treatment or other special reason to require that such provider be used; or

(2) A case-by-case waiver is granted by the commander (or other official designated for this purpose) of the military treatment facility (or Specialized Treatment Service Center) that although the care is available from a designated civilian provider, use of that provider would impose exceptional hardship on the beneficiary or the beneficiary's family.

(D) **Procedures.** The waiver request and appeal procedures established pursuant to paragraph (a)(10)(vii) of this section shall be applicable to the case-by-case waivers referred to in paragraph (a)(9)(vi)(C) of this section.

(E) **Preference for military facility use.** In any case in which services subject to a Nonavailability Statement requirement under paragraph (a)(9) of this section are available from both a military treatment facility and from a designated civilian facility under paragraph (a)(9)(vi) of this section, the military treatment facility must be used unless use of the designated civilian facility is specifically authorized.

(vii) In the case of any service subject to an NAS requirement under paragraph (a)(9) of this section and also subject to a preadmission (or other pre-service) authorization requirement under § 199.4 or § 199.15, the administrative processes for the NAS and pre-service authorization may be combined.

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