

(e) NO COPAYMENT FOR IMMEDIATE FAMILY.—No copayment shall be charged a member for care provided under TRICARE Prime to a dependent of a member of the uniformed services described in subparagraph (A), (D), or (I) of section 1072(2) of this title.

(f) DEFINITIONS.—In this section:

(1) The term “TRICARE Prime” means the managed care option of the TRICARE program.

(2) The term “catchment area”, with respect to a facility of a uniformed service, means the service area of the facility, as designated under regulations prescribed by the administering Secretaries.

(Added Pub. L. 105-261, div. A, title VII, §712(a)(1), Oct. 17, 1998, 112 Stat. 2058; amended Pub. L. 106-398, §1 [[div. A], title VII, §752(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A-195; Pub. L. 107-107, div. A, title X, §1048(a)(11), Dec. 28, 2001, 115 Stat. 1223.)

#### AMENDMENTS

2001—Subsec. (e). Pub. L. 107-107 substituted “section 1072(2)” for “section 1072”.

2000—Subsecs. (e), (f). Pub. L. 106-398 added subsec. (e) and redesignated former subsec. (e) as (f).

#### EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106-398, §1 [[div. A], title VII, §752(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A-195, provided that: “The amendments made by subsection (a) [amending this section] shall take effect 180 days after the date of the enactment of this Act [Oct. 30, 2000], and shall apply with respect to care provided on or after that date.”

#### EFFECTIVE DATE

Pub. L. 105-261, div. A, title VII, §712(b), Oct. 17, 1998, 112 Stat. 2059, provided that: “The regulations required under subsection (d) of section 1097a of title 10, United States Code (as added by subsection (a)), shall be prescribed to take effect not later than September 30, 1999. The section shall be applied under TRICARE Prime on and after the date on which the regulations take effect.”

### § 1097b. TRICARE program: financial management

(a) REIMBURSEMENT OF PROVIDERS.—(1) Subject to paragraph (2), the Secretary of Defense may reimburse health care providers under the TRICARE program at rates higher than the reimbursement rates otherwise authorized for the providers under that program if the Secretary determines that application of the higher rates is necessary in order to ensure the availability of an adequate number of qualified health care providers under that program.

(2) The amount of reimbursement provided under paragraph (1) with respect to a health care service may not exceed the lesser of the following:

(A) The amount equal to the local fee for service charge for the service in the service area in which the service is provided as determined by the Secretary based on one or more of the following payment rates:

- (i) Usual, customary, and reasonable.
- (ii) The Health Care Finance Administration’s Resource Based Relative Value Scale.
- (iii) Negotiated fee schedules.
- (iv) Global fees.

(v) Sliding scale individual fee allowances.

(B) The amount equal to 115 percent of the CHAMPUS maximum allowable charge for the service.

(3) In establishing rates and procedures for reimbursement of providers and other administrative requirements, including those contained in provider network agreements, the Secretary shall, to the extent practicable, maintain adequate networks of providers, including institutional, professional, and pharmacy. For the purpose of determining whether network providers under such provider network agreements are subcontractors for purposes of the Federal Acquisition Regulation or any other law, a TRICARE managed care support contract that includes the requirement to establish, manage, or maintain a network of providers may not be considered to be a contract for the performance of health care services or supplies on the basis of such requirement.

(b) THIRD-PARTY COLLECTIONS.—(1) A medical treatment facility of the uniformed services under the TRICARE program has the same right as the United States under section 1095 of this title to collect from a third-party payer the reasonable charges for health care services described in paragraph (2) that are incurred by the facility on behalf of a covered beneficiary under that program.

(2) The Secretary of Defense shall prescribe regulations for the administration of this subsection. The regulations shall set forth the method to be used for the computation of the reasonable charges for inpatient, outpatient, and other health care services. The method of computation may be—

(A) a method that is based on—

- (i) per diem rates;
- (ii) all-inclusive rates for each visit;
- (iii) diagnosis-related groups; or
- (iv) rates prescribed under the regulations implementing sections 1079 and 1086 of this title; or

(B) any other method considered appropriate.

(c) CONSULTATION REQUIREMENT.—The Secretary of Defense shall carry out the responsibilities under this section after consultation with the other administering Secretaries.

(Added Pub. L. 106-65, div. A, title VII, §716(a)(1), Oct. 5, 1999, 113 Stat. 690; amended Pub. L. 112-81, div. A, title VII, §715, Dec. 31, 2011, 125 Stat. 1477.)

#### AMENDMENTS

2011—Subsec. (a)(3). Pub. L. 112-81 added par. (3).

#### EFFECTIVE DATE

Pub. L. 106-65, div. A, title VII, §716(d), Oct. 5, 1999, 113 Stat. 692, provided that: “The amendments made by subsection (a) [enacting this section] shall take effect one year after the date of the enactment of this Act [Oct. 5, 1999].”

#### REPORT ON IMPLEMENTATION

Pub. L. 106-65, div. A, title VII, §716(b), Oct. 5, 1999, 113 Stat. 691, directed the Secretary of Defense to submit to Congress a report assessing the effects of the implementation of the requirements and authorities set

forth in this section not later than 6 months after Oct. 5, 1999.

**§ 1097c. TRICARE program: relationship with employer-sponsored group health plans**

(a) PROHIBITION ON FINANCIAL INCENTIVES NOT TO ENROLL IN A GROUP HEALTH PLAN.—(1) Except as provided in this subsection, the provisions of section 1862(b)(3)(C) of the Social Security Act shall apply with respect to financial or other incentives for a TRICARE-eligible employee not to enroll (or to terminate enrollment) under a health plan which would (in the case of such enrollment) be a primary plan under sections 1079(j)(1) and 1086(g) of this title in the same manner as such section 1862(b)(3)(C) applies to financial or other incentives for an individual entitled to benefits under title XVIII of the Social Security Act not to enroll (or to terminate enrollment) under a group health plan or a large group health plan which would (in the case of enrollment) be a primary plan (as defined in section 1862(b)(2)(A) of such Act).

(2)(A) The Secretary of Defense may by regulation adopt such additional exceptions to the prohibition referenced and applied under paragraph (1) as the Secretary deems appropriate and such paragraph (1) shall be implemented taking into account the adoption of such exceptions.

(B) The Secretary of Defense and the Secretary of Health and Human Services are authorized to enter into agreements for carrying out this subsection. Any such agreement shall provide that any expenses incurred by the Secretary of Health and Human Services pertaining to carrying out this subsection shall be reimbursed by the Secretary of Defense.

(C) Authorities of the Inspector General of the Department of Defense shall be available for oversight and investigations of responsibilities of employers and other entities under this subsection.

(D) Information obtained under section 1095(k) of this title may be used in carrying out this subsection in the same manner as information obtained under section 1862(b)(5) of the Social Security Act may be used in carrying out section 1862(b) of such Act.

(E) Any amounts collected in carrying out paragraph (1) shall be handled in accordance with section 1079a of this title.

(b) ELECTION OF TRICARE-ELIGIBLE EMPLOYEES TO PARTICIPATE IN GROUP HEALTH PLAN.—A TRICARE-eligible employee shall have the opportunity to elect to participate in the group health plan offered by the employer of the employee and receive primary coverage for health care services under the plan in the same manner and to the same extent as similarly situated employees of such employer who are not TRICARE-eligible employees.

(c) INAPPLICABILITY TO CERTAIN EMPLOYERS.—The provisions of this section do not apply to any employer who has fewer than 20 employees.

(d) RETENTION OF ELIGIBILITY FOR COVERAGE UNDER TRICARE.—Nothing in this section, including an election made by a TRICARE-eligible employee under subsection (b), shall be construed to affect, modify, or terminate the eligibility of a TRICARE-eligible employee or spouse of such employee for health care or dental serv-

ices under this chapter in accordance with the other provisions of this chapter.

(e) OUTREACH.—The Secretary of Defense shall, in coordination with the other administering Secretaries, conduct outreach to inform covered beneficiaries who are entitled to health care benefits under the TRICARE program of the rights and responsibilities of such beneficiaries and employers under this section.

(f) DEFINITIONS.—In this section:

(1) The term “employer” includes a State or unit of local government.

(2) The term “group health plan” means a group health plan (as that term is defined in section 5000(b)(1) of the Internal Revenue Code of 1986 without regard to section 5000(d) of the Internal Revenue Code of 1986).

(3) The term “TRICARE-eligible employee” means a covered beneficiary under section 1086 of this title entitled to health care benefits under the TRICARE program.

(g) EFFECTIVE DATE.—This section shall take effect on January 1, 2008.

(Added Pub. L. 109-364, div. A, title VII, §707(a), Oct. 17, 2006, 120 Stat. 2283.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (a)(1), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title XVIII of the Act is classified generally to subchapter XVIII (§1395 et seq.) of chapter 7 of Title 42, The Public Health and Welfare. Section 1862 of the Act is classified to section 1395y of Title 42. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

Section 5000 of the Internal Revenue Code of 1986, referred to in subsec. (f)(2), is classified to section 5000 of Title 26, Internal Revenue Code.

**§ 1098. Incentives for participation in cost-effective health care plans**

(a) WAIVER OF LIMITATIONS AND COPAYMENTS.—Subject to subsection (b), the Secretary of Defense, with respect to any plan contracted for under the authority of section 1079 or 1086 of this title, may waive, in whole or in part—

(1) any limitation set out in the second sentence of section 1079(a) of this title; or

(2) any requirement for payment by the patient under section 1079(b) or 1086(b) of this title.

(b) DETERMINATION AND REPORT.—(1) Subject to paragraph (3), the Secretary may waive a limitation or requirement as authorized by subsection (a) if the Secretary determines that during the period of the waiver such a plan will—

(A) be less costly to the Government than a plan subject to such limitations or payment requirements; or

(B) provide better services than those provided by a plan subject to such limitations or payment requirements at no additional cost to the Government.

(2) The Secretary shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report with respect to a waiver under paragraph (1), including a comparison of costs of and benefits available under—

(A) a plan with respect to which the limitations and payment requirements are waived; and