

VII, §721, Nov. 30, 1993, 107 Stat. 1695; Pub. L. 103-337, div. A, title VII, §706, Oct. 5, 1994, 108 Stat. 2800; Pub. L. 106-398, §1 [[div. A], title VII, §711(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A-176, directed the Secretary of Defense to conduct a demonstration project that would permit eligible persons to obtain prescription pharmaceuticals by mail, directed the Secretary to include in each managed health care program awarded or renewed after Jan. 1, 1993, a program to supply prescription pharmaceuticals through a managed care network of retail pharmacies, directed the Secretary to submit to Congress a report regarding the demonstration project not later than two years after its establishment and an additional report regarding the programs not later than Jan. 1, 1994, and provided for termination of section 702 of Pub. L. 102-484 no later than one year after Oct. 30, 2000.

**CORRECTION OF OMISSION IN DELAY OF INCREASE OF CHAMPUS DEDUCTIBLES RELATED TO OPERATION DESERT STORM**

Pub. L. 102-484, div. A, title VII, §721, Oct. 23, 1992, 106 Stat. 2438, provided that during the period beginning on Apr. 1, 1991, and ending on Sept. 30, 1991, the annual deductibles specified in this section or section 1086 of this title applicable to CHAMPUS beneficiaries who had served on active duty in the Persian Gulf theater of operations in connection with Operation Desert Storm would not exceed the annual deductibles in effect on Nov. 4, 1990, and provided for the credit or reimbursement of excess amounts paid.

**TEMPORARY CHAMPUS PROVISIONS FOR DEPENDENTS OF OPERATION DESERT SHIELD/DESERT STORM ACTIVE DUTY PERSONNEL**

Pub. L. 102-172, title VIII, §8085, Nov. 26, 1991, 105 Stat. 1192, provided that any CHAMPUS health care provider could voluntarily waive the patient copayment for medical services provided from Aug. 2, 1990, until the termination of Operation Desert Shield/Desert Storm for dependents of active duty personnel, provided that the Government's share of medical services was not increased during such time period.

Similar provisions were contained in Pub. L. 102-28, §105, Apr. 10, 1991, 105 Stat. 165.

Pub. L. 102-25, title III, §312, Apr. 6, 1991, 105 Stat. 85, provided that the annual deductibles specified in subsec. (b) of this section, as in effect on Nov. 4, 1990, would apply until Oct. 1, 1991, in the case of health care provided under that section to the dependents of a member of the uniformed services who had served on active duty in the Persian Gulf theater of operations in connection with Operation Desert Storm, and that patient copayment requirements could be waived upon the provider's certification to the Secretary of Defense that the amount charged the Federal Government for such health care had not been increased above the amount that the provider would have charged the Federal Government for such health care had the payment not been waived.

**TRANSITIONAL HEALTH CARE FOR MEMBERS, OR DEPENDENTS OF MEMBERS, UPON RELEASE OF MEMBER FROM ACTIVE DUTY IN CONNECTION WITH OPERATION DESERT STORM**

For provision authorizing transitional health care, including health benefits contracted for under subsec. (a) of this section, for members, or dependents of members, upon release of member from active duty in connection with Operation Desert Storm, see section 313 of Pub. L. 102-25, set out as a note under section 1076 of this title.

**§ 1079a. TRICARE program: treatment of refunds and other amounts collected**

All refunds and other amounts collected in the administration of the TRICARE program shall be credited to the appropriation available for

that program for the fiscal year in which the refund or amount is collected.

(Added Pub. L. 104-201, div. A, title VII, §733(a)(1), Sept. 23, 1996, 110 Stat. 2597; amended Pub. L. 114-328, div. A, title VII, §701(j)(1)(D), Dec. 23, 2016, 130 Stat. 2192.)

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in the following appropriations acts:

Pub. L. 104-61, title VIII, §8094, Dec. 1, 1995, 109 Stat. 671.

Pub. L. 103-335, title VIII, §8144, Sept. 30, 1994, 108 Stat. 2656.

**AMENDMENTS**

2016—Pub. L. 114-328 substituted “TRICARE program” for “CHAMPUS” in section catchline and “the TRICARE program” for “the Civilian Health and Medical Program of the Uniformed Services” in text.

**EFFECTIVE DATE OF 2016 AMENDMENT**

Amendment by Pub. L. 114-328 applicable with respect to the provision of health care under the TRICARE program beginning on Jan. 1, 2018, see section 701(k) of Pub. L. 114-328, set out as a note under section 1072 of this title.

**§ 1079b. Procedures for charging fees for care provided to civilians; retention and use of fees collected**

(a) **REQUIREMENT TO IMPLEMENT PROCEDURES.**—The Secretary of Defense shall implement procedures under which a military medical treatment facility may charge civilians who are not covered beneficiaries (or their insurers) fees representing the costs, as determined by the Secretary, of trauma and other medical care provided to such civilians.

(b) **USE OF FEES COLLECTED.**—A military medical treatment facility may retain and use the amounts collected under subsection (a) for—

- (1) trauma consortium activities;
- (2) administrative, operating, and equipment costs; and
- (3) readiness training.

(Added Pub. L. 107-107, div. A, title VII, §732(a)(1), Dec. 28, 2001, 115 Stat. 1169.)

**DEADLINE FOR IMPLEMENTATION**

Pub. L. 107-107, div. A, title VII, §732(b), Dec. 28, 2001, 115 Stat. 1170, directed the Secretary of Defense to begin to implement the procedures required by subsec. (a) of this section not later than one year after Dec. 28, 2001.

**§ 1079c. Provisional coverage for emerging services and supplies**

(a) **PROVISIONAL COVERAGE.**—In carrying out the TRICARE program, including pursuant to section 1079(a)(12) of this title, the Secretary of Defense, acting through the Assistant Secretary of Defense for Health Affairs, may provide provisional coverage for the provision of a service or supply if the Secretary determines that such service or supply is widely recognized in the United States as being safe and effective.

(b) **CONSIDERATION OF EVIDENCE.**—In making a determination under subsection (a), the Secretary may consider—

- (1) clinical trials published in refereed medical literature;

- (2) formal technology assessments;
- (3) the positions of national medical policy organizations;
- (4) national professional associations;
- (5) national expert opinion organizations; and
- (6) such other validated evidence as the Secretary considers appropriate.

(c) **INDEPENDENT EVALUATION.**—In making a determination under subsection (a), the Secretary may arrange for an evaluation from the Institute of Medicine of the National Academies or such other independent entity as the Secretary selects.

(d) **DURATION AND TERMS OF COVERAGE.**—(1) Provisional coverage under subsection (a) for a service or supply may be in effect for not longer than a total of five years.

(2) Prior to the expiration of provisional coverage of a service or supply, the Secretary shall determine the coverage, if any, that will follow such provisional coverage and take appropriate action to implement such determination. If the Secretary determines that the implementation of such determination regarding coverage requires legislative action, the Secretary shall make a timely recommendation to Congress regarding such legislative action.

(3) The Secretary, at any time, may—

(A) terminate the provisional coverage under subsection (a) of a service or supply, regardless of whether such termination is before the end of the period described in paragraph (1);

(B) establish or disestablish terms and conditions for such coverage; or

(C) take any other action with respect to such coverage.

(e) **PUBLIC NOTICE.**—The Secretary shall promptly publish on a publicly accessible Internet website of the TRICARE program a notice for each service or supply that receives provisional coverage under subsection (a), including any terms and conditions for such coverage.

(f) **FINALITY OF DETERMINATIONS.**—Any determination to approve or disapprove a service or supply under subsection (a) and any action made under subsection (d)(3) shall be final.

(Added Pub. L. 113-291, div. A, title VII, § 704(a), Dec. 19, 2014, 128 Stat. 3412.)

**§ 1080. Contracts for medical care for spouses and children: election of facilities**

(a) **ELECTION.**—A dependent covered by section 1079 of this title may elect to receive inpatient medical care either in (1) the facilities of the uniformed services, under the conditions prescribed by sections 1076-1078 of this title, or (2) the facilities provided under a plan contracted for under section 1079 of this title. However, under such regulations as the Secretary of Defense, after consulting the other administering Secretaries, may prescribe, the right to make this election may be limited for dependents residing in the area where the member concerned is assigned, if adequate medical facilities of the uniformed services are available in that area for those dependents.

(b) **ISSUANCE OF NONAVAILABILITY-OF-HEALTH-CARE STATEMENTS.**—In determining whether to

issue a nonavailability-of-health-care statement for a dependent described in subsection (a), the commanding officer of a facility of the uniformed services may consider the availability of health care services for the dependent pursuant to any contract or agreement entered into under this chapter for the provision of health care services. Notwithstanding any other provision of law, with respect to obstetrics and gynecological care for beneficiaries not enrolled in a managed care plan offered pursuant to any contract or agreement under this chapter, a non-availability-of-health-care statement shall be required for receipt of health care services related to outpatient prenatal, outpatient or inpatient delivery, and outpatient post-partum care subsequent to the visit which confirms the pregnancy.

(c) **WAIVERS AND EXCEPTIONS TO REQUIREMENTS.**—(1) A covered beneficiary enrolled in a managed care plan offered pursuant to any contract or agreement under this chapter for the provision of health care services shall not be required to obtain a nonavailability-of-health-care statement as a condition for the receipt of health care.

(2) The Secretary of Defense may waive the requirement to obtain nonavailability-of-health-care statements following an evaluation of the effectiveness of such statements in optimizing the use of facilities of the uniformed services.

(Added Pub. L. 85-861, §1(25)(B), Sept. 2, 1958, 72 Stat. 1449; amended Pub. L. 96-513, title V, §511(36), Dec. 12, 1980, 94 Stat. 2923; Pub. L. 98-557, §19(8), Oct. 30, 1984, 98 Stat. 2870; Pub. L. 103-160, div. A, title VII, §716(b)(1), Nov. 30, 1993, 107 Stat. 1692; Pub. L. 104-201, div. A, title VII, §734(a)(1), (b)(1), (c), Sept. 23, 1996, 110 Stat. 2598; Pub. L. 106-65, div. A, title VII, §712(c), Oct. 5, 1999, 113 Stat. 687.)

**HISTORICAL AND REVISION NOTES**

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
1080 .....	37:411(c).	June 7, 1956, ch. 374, § 201(c), 70 Stat. 252.

The words “a plan contracted for under section 1079 of this title” are substituted for the words “such insurance, medical service, or health plan or plans as may be provided by the authority contained in this section”. The words “under the terms of this chapter” are omitted as surplusage.

**PRIOR PROVISIONS**

A prior section 1080, act Aug. 10, 1956, ch. 1041, 70A Stat. 85, related to style and marking of envelopes, inserts, return envelopes, and to weight of ballots, prior to repeal by Pub. L. 85-861, §36B(5), Sept. 2, 1958, 72 Stat. 1570, as superseded by the Federal Voting Assistance Act of 1955 which is classified to subchapter I-D (§1973cc et seq.) of chapter 20 of Title 42, The Public Health and Welfare.

**AMENDMENTS**

1999—Subsec. (b). Pub. L. 106-65 inserted at end “Notwithstanding any other provision of law, with respect to obstetrics and gynecological care for beneficiaries not enrolled in a managed care plan offered pursuant to any contract or agreement under this chapter, a non-availability-of-health-care statement shall be required for receipt of health care services related to outpatient prenatal, outpatient or inpatient delivery, and out-