

SEC. 7. *General Provisions.* (a) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(b) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

BARACK OBAMA.

[Reference to the National Security Staff deemed to be a reference to the National Security Council Staff, see Ex. Ord. No. 13657, set out as a note under section 3021 of Title 50, War and National Defense.]

## § 1072. Definitions

In this chapter:

(1) The term “uniformed services” means the armed forces and the Commissioned Corps of the National Oceanic and Atmospheric Administration and of the Public Health Service.

(2) The term “dependent”, with respect to a member or former member of a uniformed service, means—

(A) the spouse;

(B) the unremarried widow;

(C) the unremarried widower;

(D) a child who—

(i) has not attained the age of 21;

(ii) has not attained the age of 23, is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary and is, or was at the time of the member’s or former member’s death, in fact dependent on the member or former member for over one-half of the child’s support; or

(iii) is incapable of self-support because of a mental or physical incapacity that occurs while a dependent of a member or former member under clause (i) or (ii) and is, or was at the time of the member’s or former member’s death, in fact dependent on the member or former member for over one-half of the child’s support;

(E) a parent or parent-in-law who is, or was at the time of the member’s or former member’s death, in fact dependent on him for over one-half of his support and residing in his household;

(F) the unremarried former spouse of a member or former member who (i) on the date of the final decree of divorce, dissolution, or annulment, had been married to the member or former member for a period of at least 20 years during which period the member or former member performed at least 20 years of service which is creditable in determining that member’s or former member’s eligibility for retired or retainer pay, or equivalent pay, and (ii) does not have medical coverage under an employer-sponsored health plan;

(G) a person who (i) is the unremarried former spouse of a member or former member who performed at least 20 years of serv-

ice which is creditable in determining the member or former member’s eligibility for retired or retainer pay, or equivalent pay, and on the date of the final decree of divorce, dissolution, or annulment before April 1, 1985, had been married to the member or former member for a period of at least 20 years, at least 15 of which, but less than 20 of which, were during the period the member or former member performed service creditable in determining the member or former member’s eligibility for retired or retainer pay, and (ii) does not have medical coverage under an employer-sponsored health plan;

(H) a person who would qualify as a dependent under clause (G) but for the fact that the date of the final decree of divorce, dissolution, or annulment of the person is on or after April 1, 1985, except that the term does not include the person after the end of the one-year period beginning on the date of that final decree; and

(I) an unmarried person who—

(i) is placed in the legal custody of the member or former member as a result of an order of a court of competent jurisdiction in the United States (or possession of the United States) for a period of at least 12 consecutive months;

(ii) either—

(I) has not attained the age of 21;

(II) has not attained the age of 23 and is enrolled in a full time course of study at an institution of higher learning approved by the administering Secretary; or

(III) is incapable of self support because of a mental or physical incapacity that occurred while the person was considered a dependent of the member or former member under this subparagraph pursuant to subclause (I) or (II);

(iii) is dependent on the member or former member for over one-half of the person’s support;

(iv) resides with the member or former member unless separated by the necessity of military service or to receive institutional care as a result of disability or incapacitation or under such other circumstances as the administering Secretary may by regulation prescribe; and

(v) is not a dependent of a member or a former member under any other subparagraph.

(3) The term “administering Secretaries” means the Secretaries of executive departments specified in section 1073 of this title as having responsibility for administering this chapter.

(4) The term “Civilian Health and Medical Program of the Uniformed Services” means the program authorized under sections 1079 and 1086 of this title and includes contracts entered into under section 1091 or 1097 of this title and demonstration projects under section 1092 of this title.

(5) The term “covered beneficiary” means a beneficiary under this chapter other than a beneficiary under section 1074(a) of this title.

(6) The term “child”, with respect to a member or former member of a uniformed service, means the following:

- (A) An unmarried legitimate child.
- (B) An unmarried adopted child.
- (C) An unmarried stepchild.
- (D) An unmarried person—

(i) who is placed in the home of the member or former member by a placement agency (recognized by the Secretary of Defense), or by any other source authorized by State or local law to provide adoption placement, in anticipation of the legal adoption of the person by the member or former member; and

(ii) who otherwise meets the requirements specified in paragraph (2)(D).

(7) The term “TRICARE program” means the various programs carried out by the Secretary of Defense under this chapter and any other provision of law providing for the furnishing of medical and dental care and health benefits to members and former members of the uniformed services and their dependents, including the following health plan options:

- (A) TRICARE Prime.
- (B) TRICARE Select.
- (C) TRICARE for Life.

(8) The term “custodial care” means treatment or services, regardless of who recommends such treatment or services or where such treatment or services are provided, that—

- (A) can be rendered safely and reasonably by a person who is not medically skilled; or
- (B) is or are designed mainly to help the patient with the activities of daily living.

(9) The term “domiciliary care” means care provided to a patient in an institution or homelike environment because—

- (A) providing support for the activities of daily living in the home is not available or is unsuitable; or
- (B) members of the patient’s family are unwilling to provide the care.

(10) The term “health care” includes mental health care.

(11) The term “TRICARE Extra” means the preferred-provider option of the TRICARE program made available prior to January 1, 2018, under which TRICARE Standard beneficiaries may obtain discounts on cost sharing as a result of using TRICARE network providers.

(12) The term “TRICARE Select” means the self-managed, preferred-provider network option under the TRICARE program established by section 1075 of this title.

(13) The term “TRICARE for Life” means the Medicare wraparound coverage option of the TRICARE program made available to the beneficiary by reason of section 1086(d) of this title.

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

(15) The term “TRICARE Standard” means the TRICARE program made available prior to January 1, 2018, covering health benefits contracted for under the authority of section

1079(a) or 1086(a) of this title and subject to the same rates and conditions as apply to persons covered under those sections.

(Added Pub. L. 85–861, §1(25)(B), Sept. 2, 1958, 72 Stat. 1446; amended Pub. L. 89–614, §2(1), Sept. 30, 1966, 80 Stat. 862; Pub. L. 89–718, §8(a), Nov. 2, 1966, 80 Stat. 1117; Pub. L. 96–513, title I, §115(b), title V, §511(34)(A), (35), (36), Dec. 12, 1980, 94 Stat. 2877, 2922, 2923; Pub. L. 97–252, title X, §1004(a), Sept. 8, 1982, 96 Stat. 737; Pub. L. 98–525, title VI, §645(a), Oct. 19, 1984, 98 Stat. 2548; Pub. L. 98–557, §19(1), Oct. 30, 1984, 98 Stat. 2869; Pub. L. 99–661, div. A, title VII, §701(b), Nov. 14, 1986, 100 Stat. 3898; Pub. L. 101–189, div. A, title VII, §731(a), Nov. 29, 1989, 103 Stat. 1481; Pub. L. 102–484, div. A, title VII, §706, Oct. 23, 1992, 106 Stat. 2433; Pub. L. 103–160, div. A, title VII, §702(a), Nov. 30, 1993, 107 Stat. 1686; Pub. L. 103–337, div. A, title VII, §701(a), Oct. 5, 1994, 108 Stat. 2797; Pub. L. 105–85, div. A, title VII, §711, Nov. 18, 1997, 111 Stat. 1808; Pub. L. 107–107, div. A, title VII, §701(c), Dec. 28, 2001, 115 Stat. 1160; Pub. L. 109–163, div. A, title V, §592(b), title X, §1057(a)(2), Jan. 6, 2006, 119 Stat. 3280, 3440; Pub. L. 110–181, div. A, title VII, §708(a), Jan. 28, 2008, 122 Stat. 190; Pub. L. 114–328, div. A, title VII, §701(j)(1)(A), Dec. 23, 2016, 130 Stat. 2191; Pub. L. 115–91, div. A, title VII, §739(a), Dec. 12, 2017, 131 Stat. 1446.)

#### HISTORICAL AND REVISION NOTES

| Revised section | Source (U.S. Code) | Source (Statutes at Large)     |
|-----------------|--------------------|--------------------------------|
| 1072(1) .....   | 37:402(a)(1).      | June 7, 1956, ch. 374.         |
| 1072(2) .....   | 37:402(a)(4).      | §102(a)(1), (4), 70 Stat. 250. |

In clause (1), the words “the armed forces” are substituted for the words “the Army, the Navy, the Air Force, the Marine Corps, the Coast Guard” to reflect section 101(4) of this title.

In clause (2), the words “or to a person who died while a member or retired member of a uniformed service” and “lawful” are omitted as surplusage. The word “former” is substituted for the word “retired”, since a retired member or a member of the Fleet Reserve or the Fleet Marine Corps Reserve is already included as a “member” of an armed force.

Clause (2)(E) combines 37:402(a)(4)(E) and (G).

#### PRIOR PROVISIONS

A prior section 1072, act Aug. 10, 1956, ch. 1041, 70A Stat. 81, defined terms used in former sections 1071 to 1086 of this title, 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

2017—Par. (15). Pub. L. 115–91 amended par. (15) generally. Prior to amendment, par. (15) read as follows: “The term ‘TRICARE Standard’ means the TRICARE program made available prior to January 1, 2018, covering—

“(A) medical care to which a dependent described in section 1076(a)(2) of this title is entitled; and

“(B) health benefits contracted for under the authority of section 1079(a) of this title and subject to the same rates and conditions as apply to persons covered under that section.”

2016—Par. (7). Pub. L. 114–328, §701(j)(1)(A)(i), added par. (7) and struck out former par. (7) which read as follows: “The term ‘TRICARE program’ means the managed health care program that is established by the De-

partment of Defense under the authority of this chapter, principally section 1097 of this title, and includes the competitive selection of contractors to financially underwrite the delivery of health care services under the Civilian Health and Medical Program of the Uniformed Services.”

Pars. (11) to (15). Pub. L. 114-328, § 701(j)(1)(A)(ii), added pars. (11) to (15).

2008—Par. (10). Pub. L. 110-181 added par. (10).

2006—Par. (2)(I)(i). Pub. L. 109-163, § 1057(a)(2), struck out “or a Territory” before “or possession”.

Par. (6)(D)(i). Pub. L. 109-163, § 592(b), inserted “, or by any other source authorized by State or local law to provide adoption placement,” after “(recognized by the Secretary of Defense)”.

2001—Pars. (8), (9). Pub. L. 107-107 added pars. (8) and (9).

1997—Par. (7). Pub. L. 105-85 added par. (7).

1994—Par. (2)(D). Pub. L. 103-337, § 701(a)(1), substituted “a child who” for “an unmarried legitimate child, including an adopted child or stepchild, who” in introductory provisions.

Par. (6). Pub. L. 103-337, § 701(a)(2), added par. (6).

1993—Par. (2)(I). Pub. L. 103-160 added subpar. (I).

1992—Par. (2)(D). Pub. L. 102-484 added subpar. (D) and struck out former subpar. (D) which read as follows: “an unmarried legitimate child, including an adopted child or a stepchild, who either—

“(i) has not passed his twenty-first birthday;

“(ii) is incapable of self-support because of a mental or physical incapacity that existed before that birthday and is, or was at the time of the member’s or former member’s death, in fact dependent on him for over one-half of his support; or

“(iii) has not passed his twenty-third birthday, is enrolled in a full-time course of study in an institution of higher learning approved by the administering Secretary and is, or was at the time of the member’s or former member’s death, in fact dependent on him for over one-half of his support;”.

1989—Par. (2)(H). Pub. L. 101-189 added subpar. (H).

1986—Par. (1). Pub. L. 99-661, § 701(b)(1), substituted “The term ‘uniformed services’ means” for “‘Uniformed services’ means”.

Par. (2). Pub. L. 99-661, § 701(b)(2), substituted “The term ‘dependent’, with respect to” for “‘Dependent’, with respect to”.

Par. (3). Pub. L. 99-661, § 701(b)(3), substituted “The term ‘administering Secretaries’ means” for “‘Administering Secretaries’ means”.

Pars. (4), (5). Pub. L. 99-661, § 701(b)(4), added pars. (4) and (5).

1984—Par. (2)(D)(iii). Pub. L. 98-557, § 19(1)(A), substituted reference to the administering Secretary for reference to the Secretary of Defense or the Secretary of Health and Human Services.

Par. (2)(G). Pub. L. 98-525 added subpar. (G).

Par. (3). Pub. L. 98-557, § 19(1)(B), added par. (3).

1982—Par. (2)(F). Pub. L. 97-252 added cl. (F).

1980—Pub. L. 96-513, § 511(34)(A), substituted in introductory material reference to this chapter for reference to sections 1071-1087 of this title.

Par. (1). Pub. L. 96-513, § 511(35), substituted “National Oceanic and Atmospheric Administration” for “Environmental Science Services Administration”.

Par. (2). Pub. L. 96-513, §§ 115(b), 511(36), substituted “spouse” for “wife” in cl. (A), struck out cl. (C) “the husband, if he is in fact dependent on the member or former member for over one-half of his support;”, redesignated cls. (D), (E), and (F) as (C), (D), and (E), respectively, in cl. (C) as so redesignated, struck out “, if, because of mental or physical incapacity he was in fact dependent on the member or former member at the time of her death for over one-half of his support” after “the unremarried widower”, and in cl. (D)(iii) as so redesignated, substituted “Health and Human Services” for “Health, Education, and Welfare”.

1966—Pub. L. 89-718 substituted “Environmental Science Services Administration” for “Coast and Geodetic Survey” in clause (1).

Pub. L. 89-614 substituted “1087” for “1085” in introductory phrase.

#### EFFECTIVE DATE OF 2016 AMENDMENT

Pub. L. 114-328, div. A, title VII, § 701(k), Dec. 23, 2016, 130 Stat. 2193, provided that: “The amendments made by this section [enacting sections 1075 and 1075a of this title and amending this section and sections 1076d, 1076e, 1079a, 1095f, 1099, and 1110b of this title] shall apply with respect to the provision of health care under the TRICARE program beginning on January 1, 2018.”

#### EFFECTIVE DATE OF 1993 AMENDMENT

Pub. L. 103-160, div. A, title VII, § 702(b), Nov. 30, 1993, 107 Stat. 1686, provided that: “Section 1072(2)(I) of title 10, United States Code, as added by subsection (a), shall apply with respect to determinations of dependency made on or after July 1, 1994.”

#### EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101-189, div. A, title VII, § 731(d), Nov. 29, 1989, 103 Stat. 1482, provided that:

“(1) The amendments made by this section [enacting section 1086a of this title and amending this section and sections 1076 and 1086 of this title] apply to a person referred to in section 1072(2)(H) of title 10, United States Code (as added by subsection (a)), whose decree of divorce, dissolution, or annulment becomes final on or after the date of the enactment of this Act [Nov. 29, 1989].

“(2) The amendments made by this section shall also apply to a person referred to in such section whose decree of divorce, dissolution, or annulment became final during the period beginning on September 29, 1988, and ending on the day before the date of the enactment of this Act, as if the amendments had become effective on September 29, 1988.”

#### EFFECTIVE DATE OF 1984 AMENDMENT

Pub. L. 98-525, title VI, § 645(d), Oct. 19, 1984, 98 Stat. 2549, provided that: “The amendments made by subsections (a), (b), and (c) [amending this section and provisions set out as a note under section 1408 of this title and enacting provisions set out as a note under this section] shall be effective on January 1, 1985, and shall apply with respect to health care furnished on or after that date.”

#### EFFECTIVE DATE OF 1982 AMENDMENT; TRANSITION PROVISIONS

Amendment by Pub. L. 97-252 effective Feb. 1, 1983, and applicable in the case of any former spouse of a member or former member of the uniformed services whether final decree of divorce, dissolution, or annulment of marriage of former spouse and such member or former member is dated before, on, or after Feb. 1, 1983, see section 1006 of Pub. L. 97-252, set out as an Effective Date; Transition Provisions note under section 1408 of this title.

#### EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by section 115(b) of Pub. L. 96-513 effective Sept. 15, 1981, but the authority to prescribe regulations under the amendment by Pub. L. 96-513 effective on Dec. 12, 1980, and amendment by section 511(34)(A), (35), (36) of Pub. L. 96-513 effective Dec. 12, 1980, see section 701 of Pub. L. 96-513, set out as a note under section 101 of this title.

#### EFFECTIVE DATE OF 1966 AMENDMENT

For effective date of amendment by Pub. L. 89-614, see section 3 of Pub. L. 89-614, set out as a note under section 1071 of this title.

#### REPEALS

The directory language of, but not the amendment made by, Pub. L. 89-718, § 8(a), Nov. 2, 1966, 80 Stat. 1117, cited as a credit to this section, was repealed by Pub. L. 97-295, § 6(b), Oct. 12, 1982, 96 Stat. 1314.

CONTINUATION OF INDIVIDUAL CASE MANAGEMENT SERVICES FOR CERTAIN ELIGIBLE BENEFICIARIES

Pub. L. 107–107, div. A, title VII, §701(d), Dec. 28, 2001, 115 Stat. 1160, provided that:

“(1) Notwithstanding the termination of the Individual Case Management Program by subsection (g) [amending section 1079 of this title and repealing provisions set out as a note under section 1077 of this title], the Secretary of Defense shall, in any case in which the Secretary makes the determination described in paragraph (2), continue to provide payment as if such program were in effect for home health care or custodial care services provided to an eligible beneficiary that would otherwise be excluded from coverage under regulations implementing chapter 55 of title 10, United States Code.

“(2) The determination referred to in paragraph (1) is a determination that discontinuation of payment for services not otherwise provided under such chapter would result in the provision of services inadequate to meet the needs of the eligible beneficiary and would be unjust to such beneficiary.

“(3) For purposes of this subsection, ‘eligible beneficiary’ means a covered beneficiary (as that term is defined in section 1072 of title 10, United States Code) who, before the effective date of this section [Dec. 28, 2001], was provided custodial care services under the Individual Case Management Program for which the Secretary provided payment.”

IMPROVEMENTS IN ADMINISTRATION OF THE TRICARE PROGRAM; FLEXIBILITY OF CONTRACTING

Pub. L. 107–107, div. A, title VII, §708(a), Dec. 28, 2001, 115 Stat. 1164, provided that:

“(1) During the one-year period following the date of the enactment of this Act [Dec. 28, 2001], section 1072(7) of title 10, United States Code, shall be deemed to be amended by striking ‘the competitive selection of contractors to financially underwrite’.

“(2) The terms and conditions of any contract to provide health care services under the TRICARE program entered into during the period described in paragraph (1) shall not be considered to be modified or terminated as a result of the termination of such period.”

TRANSITIONAL PROVISIONS FOR QUALIFICATION FOR CONVERSION HEALTH POLICIES; PREEXISTING CONDITIONS

Pub. L. 101–189, div. A, title VII, §731(e), Nov. 29, 1989, 103 Stat. 1483, provided that:

“(1) In the case of a person who qualified as a dependent under section 645(c) of the Department of Defense Authorization Act, 1985 (Public Law 98–525; 98 Stat. 2549) [set out below], on September 28, 1988, the Secretary of Defense shall make a conversion health policy available for purchase by the person during the remaining period the person is considered to be a dependent under that section (or within a reasonable time after that period as prescribed by the Secretary of Defense).

“(2) Purchase of a conversion health policy under paragraph (1) by a person shall entitle the person to health care for preexisting conditions in the same manner and to the same extent as provided by section 1086a(b) of title 10, United States Code (as added by subsection (b)), until the end of the one-year period beginning on the later of—

“(A) the date the person is no longer qualified as a dependent under section 645(c) of the Department of Defense Authorization Act, 1985; and

“(B) the date of the purchase of the policy.

“(3) For purposes of this subsection, the term ‘conversion health policy’ has the meaning given that term in section 1086a(c) of title 10, United States Code (as added by subsection (b)).”

DEPENDENT; QUALIFICATION AS; EFFECTIVE DATE

Pub. L. 98–525, title VI, §645(c), Oct. 19, 1984, 98 Stat. 2549, as amended by Pub. L. 99–661, div. A, title VI, §646, Nov. 14, 1986, 100 Stat. 3887; Pub. L. 100–271, §1, Mar. 29, 1988, 102 Stat. 45; Pub. L. 100–271, §1, Mar. 29, 1988, 102

Stat. 45, provided that a person who would qualify as a dependent under section 1072(2)(G) of title 10 but for the fact that the person’s final decree of divorce, dissolution, or annulment was dated on or after Apr. 1, 1985, would be considered to be a dependent under such section until the later of (1) Dec. 31, 1988, and (2) the last day of the two-year period beginning on the date of such final decree, prior to repeal by Pub. L. 100–456, div. A, title VI, §651(b), Sept. 29, 1988, 102 Stat. 1990, effective Sept. 29, 1988, or 30 days after the Secretary of Defense first makes available a conversion health policy (as defined in section 1076(f) of title 10), whichever is later.

§ 1073. Administration of this chapter

(a) RESPONSIBLE OFFICIALS.—(1) Except as otherwise provided in this chapter, the Secretary of Defense shall administer this chapter for the armed forces under his jurisdiction, the Secretary of Homeland Security shall administer this chapter for the Coast Guard when the Coast Guard is not operating as a service in the Navy, and the Secretary of Health and Human Services shall administer this chapter for the National Oceanic and Atmospheric Administration and the Public Health Service. This chapter shall be administered consistent with the Assisted Suicide Funding Restriction Act of 1997 (42 U.S.C. 14401 et seq.).

(2) Except as otherwise provided in this chapter, the Secretary of Defense shall have responsibility for administering the TRICARE program and making any decision affecting such program.

(b) STABILITY IN PROGRAM OF BENEFITS.—The Secretary of Defense shall, to the maximum extent practicable, provide a stable program of benefits under this chapter throughout each fiscal year. To achieve the stability in the case of managed care support contracts entered into under this chapter, the contracts shall be administered so as to implement all changes in benefits and administration on a quarterly basis. However, the Secretary of Defense may implement any such change prior to the next fiscal quarter if the Secretary determines that the change would significantly improve the provision of care to eligible beneficiaries under this chapter.

(Added Pub. L. 85–861, §1(25)(B), Sept. 2, 1958, 72 Stat. 1446; amended Pub. L. 89–614, §2(1), Sept. 30, 1966, 80 Stat. 862; Pub. L. 89–718, §8(a), Nov. 2, 1966, 80 Stat. 1117; Pub. L. 96–513, title V, §511(34)(A), (C), (35), (36), Dec. 12, 1980, 94 Stat. 2922, 2923; Pub. L. 98–557, §19(2), Oct. 30, 1984, 98 Stat. 2869; Pub. L. 105–12, §9(h), Apr. 30, 1997, 111 Stat. 27; Pub. L. 106–65, div. A, title VII, §725, title X, §1066(a)(7), Oct. 5, 1999, 113 Stat. 698, 770; Pub. L. 107–296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 111–383, div. A, title VII, §711, Jan. 7, 2011, 124 Stat. 4246.)

HISTORICAL AND REVISION NOTES

| Revised section | Source (U.S. Code) | Source (Statutes at Large)                    |
|-----------------|--------------------|---|
| 1073 .....      | 37:402(b).         | June 7, 1956, ch. 374, §102(b), 70 Stat. 251. |

The words “armed forces under his jurisdiction” are substituted for the words “Army, Navy, Air Force, and Marine Corps and for the Coast Guard when it is operating as a service in the Navy” to reflect section 101(4) of this title.