

§ 53.4958-4 [Corrected]

4. On page 3091, column 3, § 53.4958-4(a)(3)(vii), *Example 1*, line 12, the language “T (see § 53.4958-3(a)). Under the initial” is corrected to read “T (see § 53.4958-3(c)(3)). Under the initial”.

5. On page 3095, column 2, § 53.4958-4(c)(4), *Example 2*, line 10, the language “D fails to report the bonus on his individual” is corrected to read “D fails to report the bonus on D’s individual”.

§ 301.7611-1 [Corrected]

6. On page 3099, column 2, in A-19, line 1, the language “A-19: See § 53.4958-7(b) of this” is corrected to read “A-19: See § 53.4958-8(b) of this”.

Cynthia E. Grigsby,

Chief, Regulations Unit, Associate Chief Counsel, (Income Tax and Accounting).

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DEPARTMENT OF DEFENSE**Office of the Secretary****32 CFR Part 199**

RIN 0720-AA62

Civilian-Health and Medical Program of the Uniformed Services (CHAMPUS); Partial Implementation of Pharmacy Benefits Program; Implementation of National Defense Authorization Act for Fiscal Year 2001

AGENCY: Office of the Secretary, Department of Defense.

ACTION: Interim final rule; administrative corrections.

SUMMARY: On October 23, 2000 (65 FR 63202), the Department of Defense published a final rule concerning the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) TRICARE Dental Program. This document is published to correct an administrative error in those rules for clarity.

EFFECTIVE DATE: This rule is effective April 1, 2001.

FOR FURTHER INFORMATION CONTACT: Tariq Shahid, Medical Benefits and Reimbursement Systems, TRICARE Management Activity, Office of the Assistant Secretary of Defense (Health Affairs), telephone (303) 676-3801.

SUPPLEMENTARY INFORMATION: The final rule had an effective date that began during the Presidential Moratorium on Rules, therefore, the rule was republished on March 1, 2001 (66 FR

12855), exactly as previously published, to change the effective date to April 1, 2001. In the interval between publication and republication of the final rule on TRICARE Dental Program, on February 9, 2001 (66 FR 9651), the Department of Defense also published an interim final rule concerning, among other issues, partial implementation of the Pharmacy Benefits Program and amended 32 CFR part 199 by adding a new section 199.21, Pharmacy Benefits Program to replace the previously reserved section 199.21. On February 15, 2001 (66 FR 10367) and March 26, 2001 (66 FR 16400), DoD published corrections to the interim final rule changing the effective date to April 1, 2001, and making other administrative changes. Unfortunately, republication of the TRICARE Dental Program final rule on March 1, 2001, amending 32 CFR part 199 to remove section 199.21 (thereby intending to remove section 199.21, TRICARE Selected Reserve Dental Program, as stated in the Supplemental Information section of the final rule) resulted in a technical error removing section 199.21, Pharmacy Benefits Program which was added by the Pharmacy Benefits Program interim final rule to become effective April 1, 2001.

List of Subjects in 32 CFR Part 199

Claims, Dental health, Health care, Health insurance, Individuals with disabilities, Military personnel.

Accordingly, 32 CFR part 199 is amended as follows:

1. The authority citation continues to read as follows:

Authority: 5 U.S.C. 301; 10 U.S.C. chapter 55

2. Section 199.21 is added to read as follows:

§ 199.21 Pharmacy Benefits Program.

(a) *In general.*—(1) *Statutory authority.* 10 U.S.C. 1074g requires that the Department of Defense establish an effective, efficient, integrated Pharmacy Benefits Program for the Military Health System. This law is independent of a number of section of title 10 and other laws that affect the benefits, rules, and procedures of CHAMPUS/TRICARE, resulting in changes to the rules otherwise applicable to TRICARE Prime, Standard, and Extra. Among these changes is an independent set of beneficiary co-payments for prescription drugs.

(2) *Partial implementation during interim period.* Beginning April 1, 2001, 10 U.S.C. 1074g is partially implemented to coincide with the start of the TRICARE Senior Pharmacy

Program and substantial cost sharing changes for active duty dependents enrolled in Prime. Some authorities and requirements of Section 1074g, such as the classification of drugs as formulary or non-formulary under a “uniform formulary of pharmaceutical agents,” are not yet implemented. In this section, references to “interim implementation period” mean the period beginning April 1, 2001.

(b) *Program benefits.* During the interim implementation period, prescription drugs and medicines are available under the otherwise applicable rules and procedures for military treatment facility pharmacies, TRICARE Prime, Standard, and Extra, and the Mail Order Pharmacy Program. There is not during this interim implementation period a “uniform formulary” of drugs and medicines available in all of these parts of the system. All cost sharing requirements for prescription drugs and medicines are established in this section for pharmacy services provided throughout the Military Health System.

(c) *Providers of pharmacy services.* There are four categories of providers of pharmacy services: military treatment facilities (MTFs), network retail providers, non-network retail providers, and the mail service pharmacy program. Network retail providers are those non-MTF pharmacies that are a part of the network established for TRICARE Prime under § 199.17. Non-network pharmacies are those non-MTF pharmacies that are not part of such a network.

(d) *Classifications of drugs and medicines.* During the interim implementation period, a distinction is made for purposes of cost sharing between generic drugs and non-generic (or brand name) drugs.

(e) *TRICARE Senior Pharmacy Program.* Section 711 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (Public Law 106-398, 114 Stat. 1654) established the TRICARE Senior Pharmacy Program for Medicare eligible beneficiaries effective April 1, 2001. These beneficiaries are required to meet the eligibility criteria as prescribed in § 199.3. The benefit under the TRICARE Senior Pharmacy Program includes the Basic Program pharmacy benefits as found under § 199.4(d) and the pharmacy benefit and cost sharing as found under this part. The TRICARE Senior Pharmacy Program applies to prescription drugs and medicines provided on or after April 1, 2001.

(f) *Cost sharing.* Beneficiary cost sharing requirements for prescription drugs and medicines are based upon the generic/non-generic status and the point

of sale (i.e., MTF, network pharmacy, non-network pharmacy, mail service pharmacy) from which they are acquired. For this purpose, a generic drug is a non-brand name drug. A non-generic drug is a brand name drug. In the case of a brand name drug for which there is no generic equivalent, the non-generic cost share applies.

(1) *Military treatment facilities.* There are no cost sharing requirements for drugs and medicines provided by MTF pharmacies.

(2) *Retail pharmacy network program.* There is a \$9.00 co-pay per prescription required under the retail pharmacy network program for up to a 30-day supply of a non-generic drug or medicine, and a \$3.00 co-pay for up to a 30-day supply of a generic drug or medicine. There is no annual deductible for drugs and medicines provided under the retail pharmacy network program.

(3) *Mail service pharmacy program.* There is a \$9.00 co-pay per prescription required under the mail service pharmacy program for up to a 90-day supply of a non-generic drug or medicine, and a \$3.00 co-pay for up to a 90-day supply of a generic drug or medicine. There is no annual deductible for drugs and medicines provided under the mail service pharmacy program.

(4) *Non-network retail pharmacies.* There is a 20 percent or \$9.00 (whichever is greater) co-pay per prescription required for up to a 30-day supply of a drug obtained from a non-network pharmacy. A point of service cost-share of 50 percent applies in lieu of the 20 percent copay for TRICARE Prime enrollees who obtain their prescriptions from a non-network retail pharmacy without proper authorization. In addition, these TRICARE Prime enrollees are subject to higher deductibles as provided in § 199.17(m)(1)(i) and (m)(2)(i). For prescription drugs acquired from non-network retail pharmacies, beneficiaries other than Prime enrollees (including TRICARE Senior Pharmacy Program beneficiaries) are subject to the \$150.00 per individual or \$300.00 maximum per family (or for dependents of sponsors in pay grades below E-5, \$50 per individual or \$100 per family) annual fiscal year deductible.

(g) *Effect of other health insurance.* The double coverage rules of § 199.8 are applicable to services provided under the Pharmacy Benefits Program. For this purpose, to the extent they provide a prescription drug benefit, Medicare supplemental insurance plans or Medicare HMO plans are double coverage plans and will be the primary payor.

(h) *Procedures.* The Director, TRICARE Management Activity shall establish procedures for the effective operation of the Pharmacy Benefit Program. Such procedures may include restrictions of the quantity of pharmaceuticals to be included under the benefit, encouragement or requirement of the use of generic drugs, implementation of quality assurance and utilization management activities, and other appropriate matters.

Dated: March 13, 2002.

L.M. Bynum,

Alternate OSD Federal Register Liaison,
Department of Defense.

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DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 21

RIN 2900-AJ23

Information Collection Needed in VA's Flight-Training Programs

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: We are amending our educational assistance and educational benefit regulations concerning flight-training courses for which the Department of Veterans Affairs (VA) pays eligible students. In this regard, we are requiring that flight schools offering such flight-training courses maintain records regarding students to whom VA makes payments. This rule is intended to provide information to VA for determining compliance with requirements for VA payments to students for pursuing flight-training courses. Also, when VA, rather than a separate State entity, is the approving agency, this rule is intended to provide information to VA for determining whether to approve a flight-training course.

EFFECTIVE DATE: *Effective date:* This final rule is effective March 19, 2002.

FOR FURTHER INFORMATION CONTACT:

William G. Susling, Jr., Assistant Director for Policy and Program Development, Education Service, Veterans Benefits Administration, 202-273-7187.

SUPPLEMENTARY INFORMATION: In a document published in the **Federal Register** on April 3, 2000 (65 FR 17477), we proposed to amend VA's educational assistance and educational benefit regulations concerning flight-training courses for which VA makes payments.

In this regard, we proposed to add 38 CFR 21.4263(h)(3) to provide that flight schools offering approved flight-training courses must maintain records as set out in the text portion of the document. We also proposed to amend VA's educational assistance and educational benefit regulations by making technical changes for purposes of clarification.

Comments were sought during a 60-day period. Only one comment was received and it was highly supportive of the proposed rule. Based on the rationale set forth in the proposed rule and in this document, we are adopting the provisions of the proposed rule as a final rule except that we are making non-substantive changes for purposes of clarity and are adding a statement following § 21.4263 to reflect the approval by the Office of Management and Budget (MB) of the collection of information requirements contained in this rule.

Paperwork Reduction Act

OMB has approved under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520) the information collection requirements contained in this rule (in 38 CFR 21.4263(h)(3)) and has assigned them OMB control number 2900-0613.

OMB assigns control numbers to collections of information it approves. VA may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The valid OMB control number assigned to the collection of information requirements in this rule is displayed at the end of the affected section of the regulations.

Regulatory Flexibility Act

The Secretary of Veterans Affairs hereby certifies that this rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601-612. This rule will have a minuscule monetary effect if any, on affected entities. Pursuant to 5 U.S.C. 605(b), this rule, therefore, is exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

Unfunded Mandates

The Unfunded Mandates Reform Act requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before developing any rule that may result in an expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any given year.