

§ 728.34

(i) *Appeal procedures.* Beneficiaries may appeal the denial of their request for a DD 1251. This procedure consists of four levels within Navy, any one of which may terminate action and order issuance of a Nonavailability Statement if deemed warranted:

(1) The first level is the chief of service, or director of clinical services if the chief of service is the cognizant authority denying the beneficiary's original request.

(2) The second level is the commanding officer of the naval MTF denying the issuance. Where the appeal is denied and denial is upheld at the commanding officer's level, inform beneficiaries that their appeal may be forwarded to the geographic commander having jurisdictional authority.

(3) The third level is the appropriate geographic commander, if the appeal is denied at this level, inform beneficiaries that their appeal may be forwarded to the Commander, Naval Medical Command, Washington, DC 20372-5120.

(4) The Commander, Naval Medical Command, the fourth level of appeal, will evaluate all documentation submitted and arrive at a decision. The beneficiary will be notified in writing of this decision and the reasons therefor.

(j) *Data collection and reporting.* Do not issue the original of each DD 1251 prepared at activities where the DEER/NAS automated system is not operational. Send the retained originals to the Commanding Officer, Naval Medical Data Services Center (Code-03), Bethesda, MD 20814-5066 for reporting under report control symbol DD-HA (Q) 1463(6320).

§ 728.34 Care beyond the capabilities of a naval MTF.

When either during initial evaluation or during the course of treatment of an individual authorized care in this subpart, a determination is made that required care or services are beyond the capability of the naval MTF, the provisions of § 728.4(z)(2) apply.

§ 728.35 Coordination of benefits—third party payers.

Title 10 U.S.C. 1095 directs the services to collect from third-party payers

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the reasonable costs of inpatient hospital care incurred by the United States on behalf of retirees and dependents. Naval hospital collection agents have been provided instructions relative to this issue and are responsible for initiating claims to third-party payers for the cost of such care. Admission office personnel must obtain insurance, medical service, or health plan (third-party payer) information from retirees and dependents upon admission and forward this information to the collection agent.

§ 728.36 Pay patients.

Care is provided on a reimbursable basis to retired Coast Guard officers and enlisted personnel, retired Public Health Service Commissioned Corps officers, retired Commissioned Corps officers of the National Oceanic and Atmospheric Administration, and to the dependents of such personnel. Accordingly, patient administration personnel will follow the provisions of subpart J to initiate the collection action process when inpatient or outpatient care is provided to these categories of beneficiaries.

Subpart E—Members of Foreign Military Services and Their Dependents

§ 728.41 General provisions.

(a) *Dependent.* As used in this subpart, the term "dependent" denotes a person who bears one of the following relationships to his or her sponsor:

(1) A wife.

(2) A husband if dependent on his sponsor for more than one-half of his support.

(3) An unmarried legitimate child, including an adopted or stepchild who is dependent on the sponsor for over one-half of his or her support and who either:

(i) Has not passed the 21st birthday; or

(ii) Is incapable of self-support due to a physical or mental incapacity that existed prior to reaching the age of 21; or

(iii) Has not passed the 23rd birthday and is enrolled in a full-time course of study in an accredited institution of higher learning.

Department of the Navy, DoD

§ 728.42

(b) *Transfer to naval MTFs in the United States.* Do not transfer personnel covered in this subpart to the United States solely for the purpose of obtaining medical care at naval MTFs. Consideration may be given however, in special circumstances following laws of humanity or principles of international courtesy. Transfer to naval MTFs in the United States of such persons located outside the United States requires approval of the Secretary of the Navy. Naval commands, therefore, should not commit the Navy by a promise of treatment in the United States. Approval generally will not be granted for treatment of those who suffer from incurable afflictions, who require excessive nursing or custodial care, or those who have adequate facilities in their own country. When a request is received concerning transfer for treatment at a naval MTF in the United States, the following procedures apply:

(1) Forward the request to the Chief of Naval Operations (OP-61), with a copy to the Commander, Naval Medical Command, Washington, DC 20372-5120 for administrative processing. Include:

(i) Patient's full name and grade or rate (if dependent, the sponsor's name and grade or rate also).

(ii) Country of which a citizen.

(iii) Results of coordination with the chief of the diplomatic mission of the country involved.

(iv) Medical report giving the history, diagnosis, clinical findings, results of diagnostic tests and procedures, and all other pertinent medical information.

(v) Availability or lack thereof of professional skills and adequacy of facilities for treatment in the member's own country.

(vi) Who will assume financial responsibility for costs of hospitalization and travel.

(2) The Chief of Naval Operations (OP-61) will, if appropriate, obtain State Department clearance and guidance and advise the Secretary of the Navy accordingly. The Commander, Naval Medical Command will furnish the Chief of Naval Operations information and recommendations relative to the medical aspects and the name of the naval MTF with the capability to

provide required care. If approved, the Chief of Naval Operations will furnish, through the chain of command, the commanding officer of the designated naval MTF authorization for admission of the beneficiary for treatment.

§ 728.42 NATO.

(a) *NATO SOFA nations.* Belgium, Canada, Denmark, Federal Republic of Germany, France, Greece, Iceland, Italy, Luxembourg, the Netherlands, Norway, Portugal, Spain, Turkey, the United Kingdom, and the United States.

(b) *Beneficiaries.* The following personnel are beneficiaries under the conditions set forth.

(1) *Members of NATO military services and their dependents.* Military personnel of NATO nations, who, in connection with their official duties, are stationed in or passing through the United States, and their dependents residing in the United States with the sponsor may be provided care in naval MTFs to the same extent and under the same conditions as comparable U.S. uniformed services personnel and their dependents. Accordingly, the provisions of § 728.12 are applicable to military personnel and § 728.31(d) through § 728.34 to accompanying dependents.

(2) *Military ships and aircraft personnel.* Crew and passengers of visiting military aircraft and crews of ships of NATO nations which land or come into port at NATO or U.S. military airfields or ports within NATO countries.

(3) *NATO liaison officers.* In overseas areas, liaison officers from NATO Army Forces or members of a liaison detachment from such a Force.

(c) *Application for care.* Military personnel of NATO nations stationed in the United States and their dependents will present valid Uniformed Services Identification and Privilege Cards (DD 1173) when applying for care. For other eligible persons passing through the United States on official business and those enumerated in paragraph (b) (2) and (3) of this section, orders or other official identification may be accepted in lieu of the DD 1173.

(d) *Disposition.* When it becomes necessary to return individuals to their home country for medical reasons, make immediate notification to the