

(ii) *Internal partnership agreements.* The internal partnership agreement is an agreement between a military treatment facility commander and a CHAMPUS-authorized civilian health care provider which enables the use of civilian health care personnel or other resources to provide medical care to CHAMPUS beneficiaries on the premises of a military treatment facility. These internal agreements may be established when a military treatment facility is unable to provide sufficient health care services for CHAMPUS beneficiaries due to shortages of personnel and other required resources. In addition to allowing the military treatment facility to achieve maximum use of available facility space, the internal agreement will result in savings to the Government by using civilian medical specialists to provide inpatient care in Government-owned facilities, thereby avoiding the civilian facility charges which would have otherwise been billed to CHAMPUS.

(2) *Beneficiary cost-sharing.* Beneficiary cost-sharing under the Partnership Program is outlined in § 199.4(f)(5) of this part.

(3) *Reimbursement.* Reimbursement under the Partnership Program is outlined in § 199.14(f) of this part.

(4) *Beneficiary eligibility and authorized providers.* Existing requirements of this Regulation remain in effect as concerns beneficiary eligibility and authorized providers.

(5) *Range of benefits.* Health care services provided CHAMPUS beneficiaries under the terms of the Partnership Program must be consistent with the CHAMPUS range of benefits outlined in this Regulation. The services rendered must be otherwise covered. Charges allowed for professional services provided under the Partnership Program may include costs of support personnel, equipment, and supplies when specifically outlined in the partnership agreement. However, all CHAMPUS coverage and provider requirements must be met.

(q) *Equality of benefits.* All claims submitted for benefits under CHAMPUS shall be adjudicated in a consistent, fair, and equitable manner, without regard to the rank of the sponsor.

(r) *TRICARE program.* Many rules and procedures established in sections of this part are subject to revision in areas where the TRICARE program is implemented. The TRICARE program is the means by which managed care activities designed to improve the delivery and financing of health care services in the Military Health Services System (MHSS) are carried out. Rules and procedures for the TRICARE program are set forth in § 199.17.

[51 FR 24008, July 1, 1986, as amended at 52 FR 38754, Oct. 19, 1987; 53 FR 27961, July 26, 1988; 55 FR 43338, Oct. 29, 1990; 60 FR 52094, Oct. 5, 1995]

#### § 199.2 Definitions.

(a) *General.* In an effort to be as specific as possible as to the word and intent of CHAMPUS, the following definitions have been developed. While many of the definitions are general and some assign meaning to relatively common terms within the health insurance environment, others are applicable only to CHAMPUS; however, they all appear in this part solely for the purpose of the Program. Except when otherwise specified, the definitions in this section apply generally throughout this part.

(b) *Specific definitions. Abortion.* Abortion means the intentional termination of a pregnancy by artificial means done for a purpose other than that of producing a live birth. A spontaneous, missed or threatened abortion or termination of an ectopic (tubal) pregnancy are not included within the term “abortion” as used herein.

*Absent treatment.* Services performed by Christian Science practitioners for a person when the person is physically present.

NOTE: Technically, “Absent Treatment” is an obsolete term. The current Christian Science terminology is “treatment through prayer and spiritual means,” which is employed by an authorized Christian Science practitioner either with the beneficiary being present or absent. However, to be considered for coverage under CHAMPUS, the beneficiary must be present physically when a Christian Science service is rendered, regardless of the terminology used.

*Abuse.* For the purposes of this part, abuse is defined as any practice that is

inconsistent with accepted sound fiscal, business, or professional practice which results in a CHAMPUS claim, unnecessary cost, or CHAMPUS payment for services or supplies that are: (1) Not within the concepts of medically necessary and appropriate care, as defined in this part, or (2) that fail to meet professionally recognized standards for health care providers. The term “abuse” includes deception or misrepresentation by a provider, or any person or entity acting on behalf of a provider in relation to a CHAMPUS claim.

NOTE: Unless a specific action is deemed gross and flagrant, a pattern of inappropriate practice will normally be required to find that abuse has occurred. Also, any practice or action that constitutes fraud, as defined by this part, would also be abuse.

*Abused dependent.* An eligible spouse or child, who meets the criteria in § 199.3 of this part, of a former member who received a dishonorable or bad-conduct discharge or was dismissed from a Uniformed Service as a result of a court-martial conviction for an offense involving physical or emotional abuse or was administratively discharged as a result of such an offense, or of a member or former member who has had their entitlement to receive retired pay terminated because of misconduct involving physical or emotional abuse.

*Accidental injury.* Physical bodily injury resulting from an external force, blow or fall, or the ingestion of a foreign body or harmful substance, requiring immediate medical treatment. Accidental injury also includes animal and insect bites and sunstrokes. For the purpose of CHAMPUS, the breaking of a tooth or teeth does not constitute a physical bodily injury.

*Active duty.* Full-time duty in the Uniformed Services of the United States. It includes duty on the active list, full-time training duty, annual training duty, and attendance while in the active Military Service, at a school designated as a Service school by law or by the Secretary of the Military Department concerned.

*Active duty member.* A person on active duty in a Uniformed Service under a call or order that does not specify a period of 30 days or less.

*Activities of daily living.* Care that consists of providing food (including special diets), clothing, and shelter; personal hygiene services; observation and general monitoring; bowel training or management (unless abnormalities in bowel function are of a severity to result in a need for medical or surgical intervention in the absence of skilled services); safety precautions; general preventive procedures (such as turning to prevent bedsores); passive exercise; companionship; recreation; transportation; and such other elements of personal care that reasonably can be performed by an untrained adult with minimal instruction or supervision. Activities of daily living may also be referred to as “essentials of daily living”.

*Acupuncture.* The practice of inserting needles into various body parts to pierce specific peripheral nerves for the production of counter-irritation to relieve the discomfort of pain, induce surgical anesthesia, or for other treatment purposes.

NOTE: Acupuncture is not covered by CHAMPUS.

*Adequate Medical Documentation, Medical Treatment Records.* Adequate medical documentation contains sufficient information to justify the diagnosis, the treatment plan, and the services and supplies furnished. Under CHAMPUS, it is required that adequate and sufficient clinical records be kept by the health care provider(s) to substantiate that specific care was actually and appropriately furnished, was medically necessary and appropriate (as defined by this part), and to identify the individual(s) who provided the care. All procedures billed must be documented in the records. In determining whether medical records are adequate, the records will be reviewed under the generally acceptable standards such as the applicable Joint Commission on Accreditation of Healthcare Organizations (JCAHO) standards, the Peer Review Organization (PRO) standards (and the provider's state or local licensing requirements) and other requirements specified by this part. In general, the documentation requirements for a professional provider are

not less in the outpatient setting than the inpatient setting.

*Adequate medical documentation, mental health records.* Adequate medical documentation provides the means for measuring the type, frequency, and duration of active treatment mechanisms employed and progress under the treatment plan. Under CHAMPUS, it is required that adequate and sufficient clinical records be kept by the provider to substantiate that specific care was actually and appropriately furnished, was medically or psychologically necessary (as defined by this part), and to identify the individual(s) who provided the care. Each service provided or billed must be documented in the records. In determining whether medical records are adequate, the records will be reviewed under the generally acceptable standards (e.g., the applicable JCAHO standards and the provider's state or local licensing requirements) and other requirements specified by this part. It must be noted that the psychiatric and psychological evaluations, physician orders, the treatment plan, integrated progress notes (and physician progress notes if separate from the integrated progress notes), and the discharge summary are the more critical elements of the mental health record. However, nursing and staff notes, no matter how complete, are not a substitute for the documentation of services by the individual professional provider who furnished treatment to the beneficiary. In general, the documentation requirements of a professional provider are not less in the outpatient setting than the inpatient setting. Furthermore, even though a hospital that provides psychiatric care may be accredited under the JCAHO manual for hospitals rather than the consolidated standards manual, the critical elements of the mental health record listed above are required for CHAMPUS claims.

*Adjunctive dental care.* Dental care which is medically necessary in the treatment of an otherwise covered medical (not dental) condition, is an integral part of the treatment of such medical condition and is essential to the control of the primary medical condition; or, is required in preparation for or as the result of dental trauma

which may be or is caused by medically necessary treatment of an injury or disease (iatrogenic).

*Admission.* The formal acceptance by a CHAMPUS authorized institutional provider of a CHAMPUS beneficiary for the purpose of diagnosis and treatment of illness, injury, pregnancy, or mental disorder.

*Adopted child.* A child taken into one's own family by legal process and treated as one's own child. In case of adoption, CHAMPUS eligibility begins as of 12:01 a.m. of the day of the final adoption decree.

NOTE: There is no CHAMPUS benefit entitlement during any interim waiting period.

*All-inclusive per diem rate.* The OCHAMPUS determined rate that encompasses the daily charge for inpatient care and, unless specifically excepted, all other treatment determined necessary and rendered as part of the treatment plan established for a patient, and accepted by OCHAMPUS.

*Allowable charge.* The CHAMPUS-determined level of payment to physicians, other individual professional providers and other providers, based on one of the approved reimbursement methods set forth in §199.14 of this part. Allowable charge also may be referred to as the CHAMPUS-determined reasonable charge.

*Allowable cost.* The CHAMPUS-determined level of payment to hospitals or other institutions, based on one of the approved reimbursement methods set forth in §199.14 of this part. Allowable cost may also be referred to as the CHAMPUS-determined reasonable cost.

*Ambulance.* A specially designed vehicle for transporting the sick or injured that contains a stretcher, linens, first aid supplies, oxygen equipment, and such lifesaving equipment required by state and local law, and that is staffed by personnel trained to provide first aid treatment.

*Ambulatory Payment Classifications (APCs).* Payment of services under the TRICARE OPSS is based on grouping outpatient procedures and services into ambulatory payment classification groups based on clinical and resource homogeneity, provider concentration,

frequency of service and minimal opportunities for upcoding and code fragmentation. Nationally established rates for each APC are calculated by multiplying the APC's relative weight derived from median costs for procedures assigned to the APC group, scaled to the median cost of the APC group representing the most frequently provided services, by the conversion factor.

*Amount in dispute.* The amount of money, determined under this part, that CHAMPUS would pay for medical services and supplies involved in an adverse determination being appealed if the appeal were resolved in favor of the appealing party. See §199.10 for additional information concerning the determination of "amount in dispute" under this part.

*Anesthesia services.* The administration of an anesthetic agent by injection or inhalation, the purpose and effect of which is to produce surgical anesthesia characterized by muscular relaxation, loss of sensation, or loss of consciousness when administered by or under the direction of a physician or dentist in connection with otherwise covered surgery or obstetrical care, or shock therapy. Anesthesia services do not include hypnosis or acupuncture.

*Appealable issue.* Disputed questions of fact which, if resolved in favor of the appealing party, would result in the authorization of CHAMPUS benefits, or approval as an authorized provider in accordance with this part. An appealable issue does not exist if no facts are in dispute, if no CHAMPUS benefits would be payable, or if there is no authorized provider, regardless of the resolution of any disputed facts. See §199.10 for additional information concerning the determination of "appealable issue" under this part.

*Appealing party.* Any party to the initial determination who files an appeal of an adverse determination or requests a hearing under the provisions of this part.

*Appropriate medical care.* (i) Services performed in connection with the diagnosis or treatment of disease or injury, pregnancy, mental disorder, or well-baby care which are in keeping with the generally accepted norms for medical practice in the United States;

(ii) The authorized individual professional provider rendering the medical care is qualified to perform such medical services by reason of his or her training and education and is licensed or certified by the state where the service is rendered or appropriate national organization or otherwise meets CHAMPUS standards; and

(iii) The services are furnished economically. For purposes of this part, "economically" means that the services are furnished in the least expensive level of care or medical environment adequate to provide the required medical care regardless of whether or not that level of care is covered by CHAMPUS.

*Approved teaching programs.* For purposes of CHAMPUS, an approved teaching program is a program of graduate medical education which has been duly approved in its respective specialty or subspecialty by the Accreditation Council for Graduate Medical Education of the American Medical Association, by the Committee on Hospitals of the Bureau of Professional Education of the American Osteopathic Association, by the Council on Dental Education of the American Dental Association, or by the Council on Podiatry Education of the American Podiatry Association.

*Assistant Secretary of Defense (Health Affairs).* An authority of the Assistant Secretary of Defense (Health Affairs) includes any person designated by the Assistant Secretary to exercise the authority involved.

*Attending physician.* The physician who has the primary responsibility for the medical diagnosis and treatment of the patient. A consultant or an assistant surgeon, for example, would not be an attending physician. Under very extraordinary circumstances, because of the presence of complex, serious, and multiple, but unrelated, medical conditions, a patient may have more than one attending physician concurrently rendering medical treatment during a single period of time. An attending physician also may be a teaching physician.

*Augmentative communication device (ACD).* A voice prosthesis as determined by the Secretary of Defense to be necessary because of significant

conditions resulting from trauma, congenital anomalies, or disease. Also referred to as Speech Generating Device.

*Authorized provider.* A hospital or institutional provider, physician, or other individual professional provider, or other provider of services or supplies specifically authorized to provide benefits under CHAMPUS in §199.6 of this part.

*Automobile liability insurance.* Automobile liability insurance means insurance against legal liability for health and medical expenses resulting from personal injuries arising from operation of a motor vehicle. Automobile liability insurance includes:

(1) Circumstances in which liability benefits are paid to an injured party only when the insured party's tortious acts are the cause of the injuries; and

(2) Uninsured and underinsured coverage, in which there is a third-party tortfeasor who caused the injuries (i.e., benefits are not paid on a no-fault basis), but the insured party is not the tortfeasor.

*Backup hospital.* A hospital which is otherwise eligible as a CHAMPUS institutional provider and which is fully capable of providing emergency care to a patient who develops complications beyond the scope of services of a given category of CHAMPUS-authorized freestanding institutional provider and which is accessible from the site of the CHAMPUS-authorized freestanding institutional provider within an average transport time acceptable for the types of medical emergencies usually associated with the type of care provided by the freestanding facility.

*Balance billing.* A provider seeking any payment, other than any payment relating to applicable deductible and cost sharing amounts, from a beneficiary for CHAMPUS covered services for any amount in excess of the applicable CHAMPUS allowable cost or charge.

*Bariatric Surgery.* Surgical procedures performed to treat co-morbid conditions associated with morbid obesity. Bariatric surgery is based on two principles: (1) Divert food from the stomach to a lower part of the digestive tract where the normal mixing of digestive fluids and absorption of nutrients cannot occur (i.e., Malabsorptive surgical

procedures); or (2) Restrict the size of the stomach and decrease intake (i.e., Restrictive surgical procedures).

*Basic program.* The primary medical benefits authorized under chapter 55 of title 10 U.S. Code, and set forth in §199.4 of this part.

*Beneficiary.* An individual who has been determined to be eligible for CHAMPUS benefits, as set forth in §199.3 of this part.

*Beneficiary liability.* The legal obligation of a beneficiary, his or her estate, or responsible family member to pay for the costs of medical care or treatment received. Specifically, for the purposes of services and supplies covered by CHAMPUS, beneficiary liability includes any annual deductible amount, cost-sharing amounts, or, when a provider does not submit a claim on a participating basis on behalf of the beneficiary, amounts above the CHAMPUS-determined allowable cost or charge. Beneficiary liability also includes any expenses for medical or related services and supplies not covered by CHAMPUS.

*Birthing center.* A health care provider which meets the applicable requirements established by §199.6(b) of this part.

*Birthing room.* A room and environment designed and equipped to provide care, to accommodate support persons, and within which a woman with a low-risk, normal, full-term pregnancy can labor, deliver and recover with her infant.

*Brace.* An orthopedic appliance or apparatus (an orthosis) used to support, align, or hold parts of the body in correct position. For the purposes of CHAMPUS, it does not include orthodontic or other dental appliances.

*CAHs.* A small facility that provides limited inpatient and outpatient hospital services primarily in rural areas and meets the applicable requirements established by §199.6(b)(4)(xvi).

*Capped rate.* The maximum per diem or all-inclusive rate that CHAMPUS will allow for care.

*Case management.* Case management is a collaborative process which assesses, plans, implements, coordinates, monitors, and evaluates the options

and services required to meet an individual's health needs, using communication and available resources to promote quality, cost effective outcomes.

*Case managers.* A licensed registered nurse, licensed clinical social worker, licensed psychologist or licensed physician who has a minimum of two (2) years case management experience.

*Case-mix index.* Case-mix index is a scale that measures the relative difference in resources intensity among different groups receiving home health services.

*Certified nurse-midwife.* An individual who meets the applicable requirements established by § 199.6(c) of this part.

*Certified psychiatric nurse specialist.* A licensed, registered nurse who meets the criteria in § 199.6(c)(3)(iii)(G).

*CHAMPUS DRG-Based Payment System.* A reimbursement system for hospitals which assigns prospectively-determined payment levels to each DRG based on the average cost of treating all CHAMPUS patients in a given DRG.

*CHAMPUS fiscal intermediary.* An organization with which the Director, OCHAMPUS, has entered into a contract for the adjudication and processing of CHAMPUS claims and the performance of related support activities.

*CHAMPUS Health Benefits Advisors (HBAs).* Those individuals located at Uniformed Services medical facilities (on occasion at other locations) and assigned the responsibility for providing CHAMPUS information, information concerning availability of care from the Uniformed Services direct medical care system, and generally assisting beneficiaries (or sponsors). The term also includes "Health Benefits Counselor" and "CHAMPUS Advisor."

*Chemotherapy.* The administration of approved antineoplastic drugs for the treatment of malignancies (cancer) via perfusion, infusion, or parenteral methods of administration.

*Child.* An unmarried child of a member or former member, who meets the criteria (including age requirements) in § 199.3 of this part.

*Chiropractor.* A practitioner of chiropractic (also called chiropraxis); essentially a system of therapeutics based upon the claim that disease is caused by abnormal function of the nerve sys-

tem. It attempts to restore normal function of the nerve system by manipulation and treatment of the structures of the human body, especially those of the spinal column.

NOTE: Services of chiropractors are not covered by CHAMPUS.

*Christian science nurse.* An individual who has been accredited as a Christian Science Nurse by the Department of Care of the First Church of Christ, Scientist, Boston, Massachusetts, and listed (or eligible to be listed) in the Christian Science Journal at the time the service is provided. The duties of Christian Science nurses are spiritual and are nonmedical and nontechnical nursing care performed under the direction of an accredited Christian Science practitioner. There exist two levels of Christian Science nurse accreditation:

(i) *Graduate Christian Science nurse.* This accreditation is granted by the Department of Care of the First Church of Christ, Scientist, Boston, Massachusetts, after completion of a 3-year course of instruction and study.

(ii) *Practical Christian Science nurse.* This accreditation is granted by the Department of Care of the First Church of Christ, Scientist, Boston, Massachusetts, after completion of a 1-year course of instruction and study.

*Christian Science practitioner.* An individual who has been accredited as a Christian Science Practitioner for the First Church, Scientist, Boston, Massachusetts, and listed (or eligible to be listed) in the Christian Science Journal at the time the service is provided. An individual who attains this accreditation has demonstrated results of his or her healing through faith and prayer rather than by medical treatment. Instruction is executed by an accredited Christian Science teacher and is continuous.

*Christian Science sanatorium.* A sanatorium either operated by the First Church of Christ, Scientist, or listed and certified by the First Church of Christ, Scientist, Boston, Massachusetts.

*Chronic medical condition.* A medical condition that is not curable, but which is under control through active

medical treatment. Such chronic conditions may have periodic acute episodes and may require intermittent inpatient hospital care. However, a chronic medical condition can be controlled sufficiently to permit generally continuation of some activities of persons who are not ill (such as work and school).

*Chronic renal disease (CRD).* The end stage of renal disease which requires a continuing course of dialysis or a kidney transplantation to ameliorate uremic symptoms and maintain life.

*Clinical psychologist.* A psychologist, certified or licensed at the independent practice level in his or her state, who meets the criteria in § 199.6(c)(3)(iii)(A).

*Clinical social worker.* An individual who is licensed or certified as a clinical social worker and meets the criteria listed in § 199.6.

*Clinically meaningful endpoints.* As used the definition of *reliable evidence* in this paragraph (b) and § 199.4(g)(15), the term clinically meaningful endpoints means objectively measurable outcomes of clinical interventions or other medical procedures, expressed in terms of survival, severity of illness or condition, extent of adverse side effects, diagnostic capability, or other effect on bodily functions directly associated with such results.

*Collateral visits.* Sessions with the patient's family or significant others for purposes of information gathering or implementing treatment goals.

*Combined daily charge.* A billing procedure by an inpatient facility that uses an inclusive flat rate covering all professional and ancillary charges without any itemization.

*Complications of pregnancy.* One of the following, when commencing or exacerbating during the term of the pregnancy:

- (i) Cesarean delivery; hysterectomy.
- (ii) Pregnancy terminating before expiration of 26 weeks, except a voluntary abortion.
- (iii) False labor or threatened miscarriage.
- (iv) Nephritis or pyelitis of pregnancy.
- (v) Hyperemesis gravidarum.
- (vi) Toxemia.
- (vii) Aggravation of a heart condition or diabetes.

(viii) Premature rupture of membrane.

(ix) Ectopic pregnancy.

(x) Hemorrhage.

(xi) Other conditions as may be determined by the Director, OCHAMPUS, or a designee.

*Confinement.* That period of time from the day of admission to a hospital or other institutional provider, to the day of discharge, transfer, or separation from the facility, or death. Successive admissions also may qualify as one confinement provided not more than 60 days have elapsed between the successive admissions, except that successive admissions related to a single maternity episode shall be considered one confinement, regardless of the number of days between admissions.

*Conflict of interest.* Includes any situation where an active duty member (including a reserve member while on active duty) or civilian employee of the United States Government, through an official federal position, has the apparent or actual opportunity to exert, directly or indirectly, any influence on the referral of CHAMPUS beneficiaries to himself or herself or others with some potential for personal gain or appearance of impropriety. For purposes of this part, individuals under contract to a Uniformed Service may be involved in a conflict of interest situation through the contract position.

*Congenital anomaly.* A condition existing at or from birth that is a significant deviation from the common form or norm and is other than a common racial or ethnic feature. For purposes of CHAMPUS, congenital anomalies do not include anomalies relating to teeth (including malocclusion or missing tooth buds) or structures supporting the teeth, or to any form of hermaphroditism or sex gender confusion. Examples of congenital anomalies are harelip, birthmarks, webbed fingers or toes, or such other conditions that the Director, OCHAMPUS, or a designee, may determine to be congenital anomalies.

NOTE: Also refer to § 199.4(e)(7) of this part.

*Consultation.* A deliberation with a specialist physician or dentist requested by the attending physician primarily responsible for the medical care

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of the patient, with respect to the diagnosis or treatment in any particular case. A consulting physician or dentist may perform a limited examination of a given system or one requiring a complete diagnostic history and examination. To qualify as a consultation, a written report to the attending physician of the findings of the consultant is required.

**NOTE:** Staff consultations required by rules and regulations of the medical staff of a hospital or other institutional provider do not qualify as consultation.

**Consultation appointment.** An appointment for evaluation of medical symptoms resulting in a plan for management which may include elements of further evaluation, treatment and follow-up evaluation. Such an appointment does not include surgical intervention or other invasive diagnostic or therapeutic procedures beyond the level of very simply office procedures, or basic laboratory work but rather provides the beneficiary with an authoritative opinion.

**Consulting physician or dentist.** A physician or dentist, other than the attending physician, who performs a consultation.

**Conviction.** For purposes of this part, “conviction” or “convicted” means that (1) a judgment of conviction has been entered, or (2) there has been a finding of guilt by the trier of fact, or (3) a plea of guilty or a plea of *nolo contendere* has been accepted by a court of competent jurisdiction, regardless of whether an appeal is pending.

**Coordination of benefits.** The coordination, on a primary or secondary payer basis, of the payment of benefits between two or more health care coverages to avoid duplication of benefit payments.

**Corporate services provider.** A health care provider that meets the applicable requirements established by § 199.6(f).

**Cosmetic, reconstructive, or plastic surgery.** Surgery that can be expected primarily to improve the physical appearance of a beneficiary, or that is performed primarily for psychological purposes, or that restores form, but does not correct or improve materially a bodily function.

**Cost-share.** The amount of money for which the beneficiary (or sponsor) is

responsible in connection with otherwise covered inpatient and outpatient services (other than the annual fiscal year deductible or disallowed amounts) as set forth in §§ 199.4(f) and 199.5(b) of this part. Cost-sharing may also be referred to as “co-payment.”

**Custodial care.** 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:

(1) Can be rendered safely and reasonably by a person who is not medically skilled; or

(2) Is or are designed mainly to help the patient with the activities of daily living.

**Days.** Calendar days.

**Deceased member.** A person who, at the time of his or her death, was an active duty member of a Uniformed Service under a call or order that did not specify a period of 30 days or less.

**Deceased reservist.** A reservist in a Uniformed Service who incurs or aggravates an injury, illness, or disease, during, or on the way to or from, active duty training for a period of 30 days or less or inactive duty training and dies as a result of that specific injury, illness or disease.

**Deceased retiree.** A person who, at the time of his or her death, was entitled to retired or retainer pay or equivalent pay based on duty in a Uniformed Service. For purposes of this part, it also includes a person who died before attaining age 60 and at the time of his or her death would have been eligible for retired pay as a reservist but for the fact that he or she was not 60 years of age, and had elected to participate in the Survivor Benefit Plan established under 10 U.S.C. chapter 73.

**Deductible.** Payment by a beneficiary of the first \$50 of the CHAMPUS-determined allowable costs or charges for otherwise covered outpatient services or supplies provided in any one fiscal year; or for a family, the aggregate payment by two or more beneficiaries who submit claims of the first \$100.

**Deductible certificate.** A statement issued to the beneficiary (or sponsor) by a CHAMPUS fiscal intermediary



certifying to deductible amounts satisfied by a CHAMPUS beneficiary for any applicable fiscal year.

*Defense Enrollment Eligibility Reporting System (DEERS).* An automated system maintained by the Department of Defense for the purpose of:

(1) Enrolling members, former members and their dependents, and

(2) Verifying members', former members' and their dependents' eligibility for health care benefits in the direct care facilities and for CHAMPUS.

*Dental care.* Services relating to the teeth and their supporting structures.

*Dentist.* Doctor of Dental Medicine (D.M.D.) or Doctor of Dental Surgery (D.D.S.) who is licensed to practice dentistry by an appropriate authority.

*Dependent.* Individuals whose relationship to the sponsor (including NATO members who are stationed in or passing through the United States on official business when authorized) leads to entitlement to benefits under this part. (See § 199.3 of this part for specific categories of dependents).

*Deserter or desertion status.* A service member is a deserter, or in a desertion status, when the Uniformed Service concerned has made an administrative determination to that effect, or the member's period of unauthorized absence has resulted in a court-martial conviction of desertion. Administrative declarations of desertion normally are made when a member has been an unauthorized absentee for over 30 days, but particular circumstances may result in an earlier declaration. Entitlement to CHAMPUS benefits ceases as of 12:01 a.m. on the day following the day the desertion status is declared. Benefits are not to be authorized for treatment received during a period of unauthorized absence that results in a court-martial conviction for desertion. Dependent eligibility for benefits is re-established when a deserter is returned to military control and continues, even though the member may be in confinement, until any discharge is executed. When a deserter status is later found to have been determined erroneously, the status of deserter is considered never to have existed, and the member's dependents will have been eligible continuously for benefits under CHAMPUS.

*Diagnosis-Related Groups (DRGs).* Diagnosis-related groups (DRGs) are a method of dividing hospital patients into clinically coherent groups based on the consumption of resources. Patients are assigned to the groups based on their principal diagnosis (the reason for admission, determined after study), secondary diagnoses, procedures performed, and the patient's age, sex, and discharge status.

*Diagnostic admission.* An admission to a hospital or other authorized institutional provider, or an extension of a stay in such a facility, primarily for the purpose of performing diagnostic tests, examinations, and procedures.

*Director.* The Director of the TRICARE Management Activity or Director, Office of CHAMPUS. Any references to the Director, Office of CHAMPUS, or OCHAMPUS, shall mean the Director, TRICARE Management Activity. Any reference to Director shall also include any person designated by the Director to carry out a particular authority. In addition, any authority of the Director may be exercised by the Assistant Secretary of Defense (Health Affairs).

*Director, OCHAMPUS.* An authority of the Director, OCHAMPUS includes any person designated by the Director, OCHAMPUS to exercise the authority involved.

*Director, TRICARE Management Activity.* This term includes the Director, TRICARE Management Activity, the official sometimes referred to in this part as the Director, Office of CHAMPUS (or OCHAMPUS), or any designee of the Director, TRICARE Management Activity or the Assistant Secretary of Defense for Health Affairs who is designated for purposes of an action under this part.

*Doctor of Dental Medicine (D.M.D.).* A person who has received a degree in dentistry, that is, that department of the healing arts which is concerned with the teeth, oral cavity, and associated structures.

*Doctor of Medicine (M.D.).* A person who has graduated from a college of allopathic medicine and who is entitled legally to use the designation M.D.

*Doctor of Osteopathy (D.O.).* A practitioner of osteopathy, that is, a system of therapy based on the theory that the

body is capable of making its own remedies against disease and other toxic conditions when it is in normal structural relationship and has favorable environmental conditions and adequate nutrition. It utilizes generally accepted physical, medicinal, and surgical methods of diagnosis and therapy, while placing chief emphasis on the importance of normal body mechanics and manipulative methods of detecting and correcting faulty structure.

*Domiciliary care.* The term “domiciliary care” means care provided to a patient in an institution or homelike environment because:

- (1) Providing support for the activities of daily living in the home is not available or is unsuitable; or
- (2) Members of the patient's family are unwilling to provide the care.

*Donor.* An individual who supplies living tissue or material to be used in another body, such as a person who furnishes a kidney for renal transplant.

*Double coverage.* When a CHAMPUS beneficiary also is enrolled in another insurance, medical service, or health plan that duplicates all or part of a beneficiary's CHAMPUS benefits.

*Double coverage plan.* The specific insurance, medical service, or health plan under which a CHAMPUS beneficiary has entitlement to medical benefits that duplicate CHAMPUS benefits in whole or in part. Double coverage plans do not include:

- (i) Medicaid.
- (ii) Coverage specifically designed to supplement CHAMPUS benefits.
- (iii) Entitlement to receive care from the Uniformed Services medical facilities;
- (iv) Entitlement to receive care from Veterans Administration medical care facilities; or
- (v) Part C of the Individuals with Disabilities Education Act for services and items provided in accordance with Part C of the IDEA that are medically or psychologically necessary in accordance with the Individual Family Service Plan and that are otherwise allowable under the CHAMPUS Basic Program or the Extended Care Health Option (ECHO).

*Dual compensation.* Federal Law (5 U.S.C. 5536) prohibits active duty members or civilian employees of the

United States Government from receiving additional compensation from the government above their normal pay and allowances. This prohibition applies to CHAMPUS cost-sharing of medical care provided by active duty members or civilian government employees to CHAMPUS beneficiaries.

*Duplicate equipment.* An item of durable equipment or durable medical equipment, as defined in this section that serves the same purpose that is served by an item of durable equipment or durable medical equipment previously cost-shared by TRICARE. For example, various models of stationary oxygen concentrators with no essential functional differences are considered duplicate equipment, whereas stationary and portable oxygen concentrators are not considered duplicates of each other because the latter is intended to provide the user with mobility not afforded by the former. Also, a manual wheelchair and an electric wheelchair, both of which otherwise meet the definition of durable equipment or durable medical equipment, would not be considered duplicates of each other if each is found to provide an appropriate level of mobility. For the purpose of this Part, durable equipment or durable medical equipment that are essential to provide a fail-safe in-home life support system or that replaces in like kind an item of equipment that is not serviceable due to normal wear, accidental damage, a change in the beneficiary's condition, or has been declared adulterated by the U.S. FDA, or is being or has been recalled by the manufacturer, is not considered duplicate equipment.

*Durable equipment.* A device or apparatus which does not qualify as durable medical equipment and which is essential to the efficient arrest or reduction of functional loss resulting from, or the disabling effects of a qualifying condition as provided in § 199.5.

*Durable medical equipment.* Equipment that—

- (1) Can withstand repeated use;
- (2) Is primarily and customarily used to serve a medical purpose; and
- (3) Generally is not useful to an individual in the absence of an illness or injury.

*Economic interest.* (1) Any right, title, or share in the income, remuneration, payment, or profit of a CHAMPUS-authorized provider, or of an individual or entity eligible to be a CHAMPUS-authorized provider, resulting, directly or indirectly, from a referral relationship; or any direct or indirect ownership, right, title, or share, including a mortgage, deed of trust, note, or other obligation secured (in whole or in part) by one entity for another entity in a referral or accreditation relationship, which is equal to or exceeds 5 percent of the total property and assets of the other entity.

(2) A referral relationship exists when a CHAMPUS beneficiary is sent, directed, assigned or influenced to use a specific CHAMPUS-authorized provider, or a specific individual or entity eligible to be a CHAMPUS-authorized provider.

(3) An accreditation relationship exists when a CHAMPUS-authorized accreditation organization evaluates for accreditation an entity that is an applicant for, or recipient of CHAMPUS-authorized provider status.

*Emergency inpatient admission.* An unscheduled, unexpected, medically necessary admission to a hospital or other authorized institutional provider for treatment of a medical condition meeting the definition of medical emergency and which is determined to require immediate inpatient treatment by the attending physician.

*Entity.* For purposes of § 199.9(f)(1), “entity” includes a corporation, trust, partnership, sole proprietorship or other kind of business enterprise that is or may be eligible to receive reimbursement either directly or indirectly from CHAMPUS.

*Extended Care Health Option (ECHO).* The TRICARE program of supplemental benefits for qualifying active duty family members as described in § 199.5.

*External Partnership Agreement.* The External Partnership Agreement is an agreement between a military treatment facility commander and a CHAMPUS authorized institutional provider, enabling Uniformed Services health care personnel to provide otherwise covered medical care to CHAMPUS beneficiaries in a civilian

facility under the Military-Civilian Health Services Partnership Program. Authorized costs associated with the use of the facility will be financed through CHAMPUS under normal cost-sharing and reimbursement procedures currently applicable under the basic CHAMPUS.

*External Resource Sharing Agreement.* A type External Partnership Agreement, established in the context of the TRICARE program by agreement of a military medical treatment facility commander and an authorized TRICARE contractor. External Resource Sharing Agreements may incorporate TRICARE features in lieu of standard CHAMPUS features that would apply to standard External Partnership Agreements.

*Extramedical individual providers of care.* Individuals who do counseling or nonmedical therapy and whose training and therapeutic concepts are outside the medical field, as specified in § 199.6 of this part.

*Extraordinary physical or psychological condition.* A complex physical or psychological clinical condition of such severity which results in the beneficiary being homebound as defined in this section.

*Facility charge.* The term “facility charge” means the charge, either inpatient or outpatient, made by a hospital or other institutional provider to cover the overhead costs of providing the service. These costs would include building costs, *i.e.* depreciation and interest; staffing costs; drugs and supplies; and overhead costs, *i.e.*, utilities, housekeeping, maintenance, etc.

*Former member.* A retiree, deceased member, deceased retiree, or deceased reservist in certain circumstances (see section 199.3 for additional information related to certain deceased reservists’ dependents’ eligibility). Under conditions specified under § 199.3 of this part, former member may also include a member of the Uniformed Services who has been discharged from active duty (or, in some cases, full-time National Guard duty), whether voluntarily or involuntarily, under other than adverse conditions and qualifies for CHAMPUS benefits under the Transitional Assistance Management Program or the Continued Health Care Benefit Program.

*Former spouse.* A former husband or wife of a Uniformed Service member or former member who meets the criteria as set forth in §199.3(b)(2)(ii) of this part.

*Fraud.* For purposes of this part, fraud is defined as (1) a deception or misrepresentation by a provider, beneficiary, sponsor, or any person acting on behalf of a provider, sponsor, or beneficiary with the knowledge (or who had reason to know or should have known) that the deception or misrepresentation could result in some unauthorized CHAMPUS benefit to self or some other person, or some unauthorized CHAMPUS payment, or (2) a claim that is false or fictitious, or includes or is supported by any written statement which asserts a material fact which is false or fictitious, or includes or is supported by any written statement that (a) omits a material fact and (b) is false or fictitious as a result of such omission and (c) is a statement in which the person making, presenting, or submitting such statement has a duty to include such material fact. It is presumed that, if a deception or misrepresentation is established and a CHAMPUS claim is filed, the person responsible for the claim had the requisite knowledge. This presumption is rebuttable only by substantial evidence. It is further presumed that the provider of the services is responsible for the actions of all individuals who file a claim on behalf of the provider (for example, billing clerks); this presumption may only be rebutted by clear and convincing evidence.

*Freestanding.* Not “institution-affiliated” or “institution-based.”

*Full-time course of higher education.* A complete, progressive series of studies to develop attributes such as knowledge, skill, mind, and character, by formal schooling at a college or university, and which meets the criteria set out in §199.3 of this part. To qualify as full-time, the student must be carrying a course load of a minimum of 12 credit hours or equivalent each semester.

*General staff nursing service.* All nursing care (other than that provided by private duty nurses) including, but not limited to, general duty nursing, emergency room nursing, recovery room nursing, intensive nursing care, and

group nursing arrangements performed by nursing personnel on the payroll of the hospital or other authorized institution.

*Good faith payments.* Those payments made to civilian sources of medical care who provided medical care to persons purporting to be eligible beneficiaries but who are determined later to be ineligible for CHAMPUS benefits. (The ineligible person usually possesses an erroneous or illegal identification card.) To be considered for good faith payments, the civilian source of care must have exercised reasonable precautions in identifying a person claiming to be an eligible beneficiary.

*Habilitation.* The provision of functional capacity, absent from birth due to congenital anomaly or developmental disorder, which facilitates performance of an activity in the manner, or within the range considered normal, for a human being.

*Handicap.* For the purposes of this part, the term “handicap” is synonymous with the term “disability.”

*High-risk pregnancy.* A pregnancy is high-risk when the presence of a currently active or previously treated medical, anatomical, physiological illness or condition may create or increase the likelihood of a detrimental effect on the mother, fetus, or newborn and presents a reasonable possibility of the development of complications during labor or delivery.

*Homebound.* A beneficiary’s condition is such that there exists a normal inability to leave home and, consequently, leaving home would require considerable and taxing effort. Any absence of an individual from the home attributable to the need to receive health care treatment—including regular absences for the purpose of participating in therapeutic, psychosocial, or medical treatment in an adult day-care program that is licensed or certified by a state, or accredited to furnish adult day-care services in the—state shall not disqualify an individual from being considered to be confined to his home. Any other absence of an individual from the home shall not disqualify an individual if the absence is infrequent or of relatively short duration. For purposes of the preceding sentence, any absence for the purpose of

attending a religious service shall be deemed to be an absence of infrequent or short duration. Also, absences from the home for non-medical purposes, such as an occasional trip to the barber, a walk around the block or a drive, would not necessarily negate the beneficiary's homebound status if the absences are undertaken on an infrequent basis and are of relatively short duration. An exception is made to the above homebound definitional criteria for beneficiaries under the age of 18 and those receiving maternity care. The only homebound criteria for these special beneficiary categories is written certification from a physician attesting to the fact that leaving the home would place the beneficiary at medical risk. In addition to the above, absences, whether regular or infrequent, from the beneficiary's primary residence for the purpose of attending an educational program in a public or private school that is licensed and/or certified by a state, shall not negate the beneficiary's homebound status.

*Home health discipline.* One of six home health disciplines covered under the home health benefit (skilled nursing services, home health aide services, physical therapy services, occupational therapy services, speech-language pathology services, and medical social services).

*Home health market basket index.* An index that reflects changes over time in the prices of an appropriate mix of goods and services included in home health services.

*Hospice care.* Hospice care is a program which provides an integrated set of services and supplies designed to care for the terminally ill. This type of care emphasizes palliative care and supportive services, such as pain control and home care, rather than cure-oriented services provided in institutions that are otherwise the primary focus under CHAMPUS. The benefit provides coverage for a humane and sensible approach to care during the last days of life for some terminally ill patients.

*Hospital, acute care (general and special).* An institution that meets the criteria as set forth in §199.6(b)(4)(i) of this part.

*Hospital, long-term (tuberculosis, chronic care, or rehabilitation).* An institution that meets the criteria as set forth in §199.6(b)(4)(iii) of this part.

*Hospital, psychiatric.* An institution that meets the criteria as set forth in §199.6(b)(4)(ii) of this part.

*Illegitimate child.* A child not recognized as a lawful offspring; that is, a child born of parents not married to each other.

*Immediate family.* The spouse, natural parent, child and sibling, adopted child and adoptive parent, stepparent, stepchild, grandparent, grandchild, stepbrother and stepsister, father-in-law, mother-in-law of the beneficiary, or provider, as appropriate. For purposes of this definition only, to determine who may render services to a beneficiary, the step-relationship continues to exist even if the marriage upon which the relationship is based terminates through divorce or death of one of the parents.

*Independent laboratory.* A free-standing laboratory approved for participation under Medicare and certified by the Health Care Financing Administration.

*Infirmaries.* Facilities operated by student health departments of colleges and universities to provide inpatient or outpatient care to enrolled students. When specifically approved by the Director, OCHAMPUS, or a designee, a boarding school infirmary also is included.

*Initial determination.* A formal written decision on a CHAMPUS claim, a request for benefit authorization, a request by a provider for approval as an authorized CHAMPUS provider, or a decision disqualifying or excluding a provider as an authorized provider under CHAMPUS. Rejection of a claim or a request for benefit or provider authorization for failure to comply with administrative requirements, including failure to submit reasonably requested information, is not an initial determination. Responses to general or specific inquiries regarding CHAMPUS benefits are not initial determinations.

*In-out surgery.* Surgery performed in the outpatient department of a hospital or other institutional provider, in a physician's office or the office of another individual professional provider,

in a clinic, or in a “freestanding” ambulatory surgical center which does not involve a formal inpatient admission for a period of 24 hours or more.

*Inpatient.* A patient who has been admitted to a hospital or other authorized institution for bed occupancy for purposes of receiving necessary medical care, with the reasonable expectation that the patient will remain in the institution at least 24 hours, and with the registration and assignment of an inpatient number or designation. Institutional care in connection with in and out (ambulatory) surgery is not included within the meaning of inpatient whether or not an inpatient number or designation is made by the hospital or other institution. If the patient has been received at the hospital, but death occurs before the actual admission occurs, an inpatient admission exists as if the patient had lived and had been formally admitted.

*Institution-affiliated.* Related to a CHAMPUS-authorized institutional provider through a shared governing body but operating under a separate and distinct license or accreditation.

*Institution-based.* Related to a CHAMPUS-authorized institutional provider through a shared governing body and operating under a common license and shared accreditation.

*Institutional provider.* A health care provider which meets the applicable requirements established by § 199.6(b) of this part.

*Intensive care unit (ICU).* A special segregated unit of a hospital in which patients are concentrated by reason of serious illness, usually without regard to diagnosis. Special lifesaving techniques and equipment regularly and immediately are available within the unit, and patients are under continuous observation by a nursing staff specially trained and selected for the care of this type patient. The unit is maintained on a continuing rather than an intermittent or temporary basis. It is not a postoperative recovery room nor a postanesthesia room. In some large or highly specialized hospitals, the ICUs may be further refined for special purposes, such as for respiratory conditions, cardiac surgery, coronary care, burn care, or neurosurgery. For the purposes of

CHAMPUS, these specialized units would be considered ICUs if they otherwise conformed to the definition of an ICU.

*Intern.* A graduate of a medical or dental school serving in a hospital in preparation to being licensed to practice medicine or dentistry.

*Internal Partnership Agreement.* The Internal Partnership Agreement is an agreement between a military treatment facility commander and a CHAMPUS-authorized civilian health care provider which enables the use of civilian health care personnel or other resources to provide medical care to CHAMPUS beneficiaries on the premises of a military treatment facility under the Military-Civilian Health Services Partnership Program. These internal agreements may be established when a military treatment facility is unable to provide sufficient health care services for CHAMPUS beneficiaries due to shortages of personnel and other required resources.

*Internal Resource Sharing Agreement.* A type of Internal Partnership Agreement, established in the context of the TRICARE program by agreement of a military medical treatment facility commander and authorized TRICARE contractor. Internal Resource Sharing Agreements may incorporate TRICARE features in lieu of standard CHAMPUS features that would apply to standard Internal Partnership Agreements.

*Item, Service, or Supply.* Includes (1) any item, device, medical supply, or service claimed to have been provided to a beneficiary (patient) and listed in an itemized claim for CHAMPUS payment or a request for payment, or (2) in the case of a claim based on costs, any entry or omission in a cost report, books of account, or other documents supporting the claim.

*Laboratory and pathological services.* Laboratory and pathological examinations (including machine diagnostic tests that produce hard-copy results) when necessary to, and rendered in connection with medical, obstetrical, or surgical diagnosis or treatment of an illness or injury, or in connection with well-baby care.

*Legitimized child.* A formerly illegitimate child who is considered legitimate by reason of qualifying actions recognized in law.

*Licensed practical nurse (L.P.N.).* A person who is prepared specially in the scientific basis of nursing; who is a graduate of a school of practical nursing; whose qualifications have been examined by a state board of nursing; and who has been authorized legally to practice as an L.P.N. under the supervision of a physician.

*Licensed vocational nurse (L.V.N.).* A person who specifically is prepared in the scientific basis of nursing; who is a graduate of a school of vocational nursing; whose qualifications have been examined by a state board of nursing; and who has been authorized legally to practice as a L.V.N. under the supervision of a physician.

*Long-term hospital care.* Any inpatient hospital stay that exceeds 30 days.

*Low-risk pregnancy.* A pregnancy is low-risk when the basis for the ongoing clinical expectation of a normal uncomplicated birth, as defined by reasonable and generally accepted criteria of maternal and fetal health, is documented throughout a generally accepted course of prenatal care.

*Major life activity.* Breathing, cognition, hearing, seeing, and age appropriate ability essential to bathing, dressing, eating, grooming, speaking, stair use, toilet use, transferring, and walking.

*Marriage and family therapist, certified.* An extramedical individual provider who meets the requirements outlined in § 199.6.

*Maternity care.* Care and treatment related to conception, delivery, and abortion, including prenatal and postnatal care (generally through the 6th post-delivery week), and also including treatment of the complications of pregnancy.

*Medicaid.* Those medical benefits authorized under Title XIX of the Social Security Act provided to welfare recipients and the medically indigent through programs administered by the various states.

*Medical.* The generally used term which pertains to the diagnosis and treatment of illness, injury, pregnancy, and mental disorders by trained and li-

censed or certified health professionals. For purposes of CHAMPUS, the term “medical” should be understood to include “medical, psychological, surgical, and obstetrical,” unless it is specifically stated that a more restrictive meaning is intended.

*Medical emergency.* The sudden and unexpected onset of a medical condition or the acute exacerbation of a chronic condition that is threatening to life, limb, or sight, and requires immediate medical treatment or which manifests painful symptomatology requiring immediate palliative efforts to alleviate suffering. Medical emergencies include heart attacks, cardiovascular accidents, poisoning, convulsions, kidney stones, and such other acute medical conditions as may be determined to be medical emergencies by the Director, OCHAMPUS, or a designee. In the case of a pregnancy, a medical emergency must involve a sudden and unexpected medical complication that puts the mother, the baby, or both, at risk. Pain would not, however, qualify a maternity case as an emergency, nor would incipient birth after the 34th week of gestation, unless an otherwise qualifying medical condition is present. Examples of medical emergencies related to pregnancy or delivery are hemorrhage, ruptured membrane with prolapsed cord, placenta previa, abruptio placenta, presence of shock or unconsciousness, suspected heart attack or stroke, or trauma (such as injuries received in an automobile accident).

*Medically or psychologically necessary preauthorization.* A pre (or prior) authorization for payment for medical/surgical or psychological services based upon criteria that are generally accepted by qualified professionals to be reasonable for diagnosis and treatment of an illness, injury, pregnancy, and mental disorder.

*Medical supplies and dressings (consumables).* Necessary medical or surgical supplies (exclusive of durable medical equipment) that do not withstand prolonged, repeated use and that are needed for the proper medical management of a condition for which benefits are otherwise authorized under CHAMPUS, on either an inpatient or

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outpatient basis. Examples include disposable syringes for a diabetic, colostomy sets, irrigation sets, and ace bandages.

*Medically or psychologically necessary.* The frequency, extent, and types of medical services or supplies which represent appropriate medical care and that are generally accepted by qualified professionals to be reasonable and adequate for the diagnosis and treatment of illness, injury, pregnancy, and mental disorders or that are reasonable and adequate for well-baby care.

*Medicare.* These medical benefits authorized under Title XVIII of the Social Security Act provided to persons 65 or older, certain disabled persons, or persons with chronic renal disease, through a national program administered by the DHHS, Health Care Financing Administration, Medicare Bureau.

*Member.* A person on active duty in a Uniformed Service under a call or order that does not specify a period of 30 days or less. (For CHAMPUS cost-sharing purposes only, a former member who received a dishonorable or bad-conduct discharge or was dismissed from a Uniformed Service as a result of a court-martial conviction for an offense involving physical or emotional abuse or was administratively discharged as a result of such an offense is considered a member).

*Mental disorder.* For purposes of the payment of CHAMPUS benefits, a mental disorder is a nervous or mental condition that involves a clinically significant behavioral or psychological syndrome or pattern that is associated with a painful symptom, such as distress, and that impairs a patient's ability to function in one or more major life activities. Additionally, the mental disorder must be one of those conditions listed in the DSM-III.

*Mental health counselor.* An extramedical individual provider who meets the requirements outlined in § 199.6.

*Mental health therapeutic absence.* A therapeutically planned absence from the inpatient setting. The patient is not discharged from the facility and may be away for periods of several hours to several days. The purpose of the therapeutic absence is to give the

patient an opportunity to test his or her ability to function outside the inpatient setting before the actual discharge.

*Missing in action (MIA).* A battle casualty whose whereabouts and status are unknown, provided the absence appears to be involuntary and the service member is not known to be in a status of unauthorized absence.

NOTE: Claims for eligible CHAMPUS beneficiaries whose sponsor is classified as MIA are processed as dependents of an active duty service member.

*Morbid obesity.* A body mass index (BMI) equal to or greater than 40 kilograms per meter squared ( $\text{kg}/\text{m}^2$ ), or a BMI equal to or greater than 35  $\text{kg}/\text{m}^2$  in conjunction with high-risk comorbidities, which is based on the guidelines established by the National Heart, Lung and Blood Institute on the Identification and Management of Patients with Obesity.

NOTE: Body mass index is equal to weight in kilograms divided by height in meters squared.

*Most-favored rate.* The lowest usual charge to any individual or third-party payer in effect on the date of the admission of a CHAMPUS beneficiary.

*Natural childbirth.* Childbirth without the use of chemical induction or augmentation of labor or surgical procedures other than episiotomy or perineal repair.

*Naturopath.* A person who practices naturopathy, that is, a drugless system of therapy making use of physical forces such as air, light, water, heat, and massage.

NOTE: Services of a naturopath are not covered by CHAMPUS.

*NAVCARE clinics.* Contractor owned, staffed, and operated primary clinics exclusively serving uniformed services beneficiaries pursuant to contracts awarded by a Military Department.

*No-fault insurance.* No-fault insurance means an insurance contract providing compensation for health and medical expenses relating to personal injury arising from the operation of a motor vehicle in which the compensation is not premised on whom may have been responsible for causing such injury. No-



fault insurance includes personal injury protection and medical payments benefits in cases involving personal injuries resulting from operation of a motor vehicle.

*Nonavailability statement.* A certification by a commander (or a designee) of a Uniformed Services medical treatment facility, recorded on DEERS, generally for the reason that the needed medical care being requested by a non-TRICARE Prime enrolled beneficiary cannot be provided at the facility concerned because the necessary resources are not available in the time frame needed.

*Nonparticipating provider.* A hospital or other authorized institutional provider, a physician or other authorized individual professional provider, or other authorized provider that furnished medical services or supplies to a CHAMPUS beneficiary, but who did not agree on the CHAMPUS claim form to participate or to accept the CHAMPUS-determined allowable cost or charge as the total charge for the services. A nonparticipating provider looks to the beneficiary or sponsor for payment of his or her charge, not CHAMPUS. In such cases, CHAMPUS pays the beneficiary or sponsor, not the provider.

*North Atlantic Treaty Organization (NATO) member.* A military member of an armed force of a foreign NATO nation who is on active duty and who, in connection with official duties, is stationed in or passing through the United States. The foreign NATO nations are Belgium, Canada, Denmark, France, Federal Republic of Germany, Greece, Iceland, Italy, Luxembourg, the Netherlands, Norway, Portugal, Spain, Turkey, and the United Kingdom.

*Not-for-profit entity.* An organization or institution owned and operated by one or more nonprofit corporations or associations formed pursuant to applicable state laws, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

*Occupational therapist.* A person who is trained specially in the skills and techniques of occupational therapy (that is, the use of purposeful activity with individuals who are limited by physical injury of illness, psychosocial

dysfunction, developmental or learning disabilities, poverty and cultural differences, or the aging process in order to maximize independence, prevent disability, and maintain health) and who is licensed to administer occupational therapy treatments prescribed by a physician.

*Official formularies.* A book of official standards for certain pharmaceuticals and preparations that are not included in the *U.S. Pharmacopeia*.

*Optometrist (Doctor of Optometry).* A person trained and licensed to examine and test the eyes and to treat visual defects by prescribing and adapting corrective lenses and other optical aids, and by establishing programs of exercises.

*Oral surgeon (D.D.S. or D.M.D.).* A person who has received a degree in dentistry and who limits his or her practice to oral surgery, that is, that branch of the healing arts that deals with the diagnosis and the surgical correction and adjunctive treatment of diseases, injuries, and defects of the mouth, the jaws, and associated structures.

*Orthopedic shoes.* Shoes prescribed by an orthopedic surgeon to effect changes in foot or feet position and alignment and which are not an integral part of a brace.

*Other allied health professionals.* Individual professional providers other than physicians, dentists, or extramedical individual providers, as specified in § 199.6 of this part.

*Other special institutional providers.* Certain specialized medical treatment facilities, either inpatient or outpatient, other than those specifically defined, that provide courses of treatment prescribed by a doctor of medicine or osteopathy; when the patient is under the supervision of a doctor of medicine or osteopathy during the entire course of the inpatient admission or the outpatient treatment; when the type and level of care and services rendered by the institution are otherwise authorized in this Regulation; when the facility meets all licensing or other certification requirements that are extant in the jurisdiction in which the facility is located geographically; which is accredited by the Joint Commission

on Accreditation if an appropriate accreditation program for the given type of facility is available; and which is not a nursing home, intermediate facility, halfway house, home for the aged, or other institution of similar purpose.

*Outpatient.* A patient who has not been admitted to a hospital or other authorized institution as an inpatient.

*Ownership or control interest.* For purposes of § 199.9(f)(1), a “person with an ownership or control interest” is any one who

(1) Has directly or indirectly a 5 percent or more ownership interest in the entity; or

(2) Is the owner of a whole or part interest in any mortgage, deed of trust, note, or other obligation secured (in whole or in part) by the entity or any of the property or assets thereof, which whole or part interest is equal to or exceeds 5 percent of the total property and assets of the entity; or

(3) Is an officer or director of the entity if the entity is organized as a corporation; or

(4) Is a partner in the entity if the entity is organized as a partnership.

*Partial hospitalization.* A treatment setting capable of providing an interdisciplinary program of medical therapeutic services at least 3 hours per day, 5 days per week, which may embrace day, evening, night and weekend treatment programs which employ an integrated, comprehensive and complementary schedule of recognized treatment approaches. Partial hospitalization is a time-limited, ambulatory, active treatment program that offers therapeutically intensive, coordinated, and structured clinical services within a stable therapeutic environment. Partial hospitalization is an appropriate setting for crisis stabilization, treatment of partially stabilized mental health disorders, and a transition from an inpatient program when medically necessary. Such programs must enter into a participation agreement with CHAMPUS, and be accredited and in substantial compliance with the standards of the Mental Health Manual of the Joint Commission on Accreditation of Healthcare Organizations (JCAHO) (formerly known as the Consolidated Standards).

*Participating provider.* A CHAMPUS-authorized provider that is required, or has agreed by entering into a CHAMPUS participation agreement or by act of indicating “accept assignment” on the claim form, to accept the CHAMPUS-allowable amount as the maximum total charge for a service or item rendered to a CHAMPUS beneficiary, whether the amount is paid for fully by CHAMPUS or requires cost-sharing by the CHAMPUS beneficiary.

*Part-time or intermittent home health aide and skilled nursing services.* Part-time or intermittent means skilled nursing and home health aide services furnished any number of days per week as long as they are furnished (combined) less than 8 hours each day and 28 or fewer hours each week (or, subject to review on a case-by-case basis as to the need for care, less than 8 hours each day and 35 or fewer hours per week).

*Party to a hearing.* An appealing party or parties and CHAMPUS.

*Party to the initial determination.* Includes CHAMPUS and also refers to a CHAMPUS beneficiary and a participating provider of services whose interests have been adjudicated by the initial determination. In addition, a provider who has been denied approval as an authorized CHAMPUS provider is a party to that initial determination, as is a provider who is disqualified or excluded as an authorized provider under CHAMPUS, unless the provider is excluded based on a determination of abuse or fraudulent practices or procedures under another federal or federally funded program. See § 199.10 for additional information concerning parties not entitled to administrative review under the CHAMPUS appeals and hearing procedures.

*Pastoral counselor.* An extramedical individual provider who meets the requirements outlined in § 199.6.

*Pharmaceutical Agent.* Drugs, biological products, and medical devices under the regulatory authority of the Food and Drug Administration.

*Pharmacist.* A person who is trained specially in the scientific basis of pharmacology and who is licensed to prepare and sell or dispense drugs and compounds and to make up prescriptions ordered by a physician.

*Physical medicine services or physiatry services.* The treatment of disease or injury by physical means such as massage, hydrotherapy, or heat.

*Physical therapist.* A person who is trained specially in the skills and techniques of physical therapy (that is, the treatment of disease by physical agents and methods such as heat, massage, manipulation, therapeutic exercise, hydrotherapy, and various forms of energy such as electrotherapy and ultrasound), who has been authorized legally (that is, registered) to administer treatments prescribed by a physician and who is entitled legally to use the designation “Registered Physical Therapist.” A physical therapist also may be called a physiotherapist.

*Physician.* A person with a degree of Doctor of Medicine (M.D.) or Doctor of Osteopathy (D.O.) who is licensed to practice medicine by an appropriate authority.

*Physician in training.* Interns, residents, and fellows participating in approved postgraduate training programs and physicians who are not in approved programs but who are authorized to practice only in a hospital or other institutional provider setting, e.g., individuals with temporary or restricted licenses, or unlicensed graduates of foreign medical schools.

*Podiatrist (Doctor of Podiatry or Surgical Chiropody).* A person who has received a degree in podiatry (formerly called chiropody), that is, that specialized field of the healing arts that deals with the study and care of the foot, including its anatomy, pathology, and medical and surgical treatment.

*Preauthorization.* A decision issued in writing, or electronically by the Director, TRICARE Management Activity, or a designee, that TRICARE benefits are payable for certain services that a beneficiary has not yet received. The term prior authorization is commonly substituted for preauthorization and has the same meaning.

*Prescription drugs and medicines.* Drugs and medicines which at the time of use were approved for commercial marketing by the U.S. Food and Drug Administration, and which, by law of the United States, require a physician's or dentist's prescription, except that it includes insulin for known dia-

betics whether or not a prescription is required. Drugs grandfathered by the Federal Food, Drug and Cosmetic Act of 1938 may be covered under CHAMPUS as if FDA approved. Prescription drugs and medicines may also be referred to as “pharmaceutical agents”.

NOTE: The fact that the U.S. Food and Drug Administration has approved a drug for testing on humans would not qualify it within this definition.

*Preventive care.* Diagnostic and other medical procedures not related directly to a specific illness, injury, or definitive set of symptoms, or obstetrical care, but rather performed as periodic health screening, health assessment, or health maintenance.

*Primary caregiver.* An individual who renders to a beneficiary services to support the activities of daily living (as defined in §199.2) and specific services essential to the safe management of the beneficiary's condition.

*Primary payer.* The plan or program whose medical benefits are payable first in a double coverage situation.

*PRIMUS clinics.* Contractor owned, staffed, and operated primary care clinics exclusively serving uniformed services beneficiaries pursuant to contracts awarded by a Military Department.

*Private room.* A room with one bed that is designated as a private room by the hospital or other authorized institutional provider.

*Profound hearing loss (adults).* An “adult” (a spouse as defined in section 32 CFR 199.3(b) of this part) of a member of the Uniformed Services on active duty for more than 30 days) with a hearing threshold of:

(1) 40 dB HL or greater in one or both ears when tested at 500, 1,000, 1,500, 2,000, 3,000, or 4,000Hz; or

(2) 26 dB HL or greater in one or both ears at any three or more of those frequencies; or

(3) A speech recognition score less than 94 percent.

*Profound hearing loss (children).* A “child” (an unmarried child of an active duty member who otherwise meets the criteria (including age requirements) in 32 CFR 199.3 of this part) with a 26dB HL or greater hearing threshold level in one or both ears

when tested in the frequency range at 500, 1,000, 2,000, 3,000 or 4,000 Hz.

*Progress notes.* Progress notes are an essential component of the medical record wherein health care personnel provide written evidence of ordered and supervised diagnostic tests, treatments, medical procedures, therapeutic behavior and outcomes. In the case of mental health care, progress notes must include: the date of the therapy session; length of the therapy session; a notation of the patient's signs and symptoms; the issues, pathology and specific behaviors addressed in the therapy session; a statement summarizing the therapeutic interventions attempted during the therapy session; descriptions of the response to treatment, the outcome of the treatment, and the response to significant others; and a statement summarizing the patient's degree of progress toward the treatment goals. Progress notes do not need to repeat all that was said during a therapy session but must document a patient contact and be sufficiently detailed to allow for both peer review and audits to substantiate the quality and quantity of care rendered.

*Prosthetic device (prosthesis).* An artificial substitute for a missing body part.

*Prosthetic or Prosthetic device (prosthesis).* A prosthetic or prosthetic device (prosthesis) determined by the Secretary of Defense to be necessary because of significant conditions resulting from trauma, congenital anomalies, or diseases.

*Prosthetic supplies.* Supplies that are necessary for the effective use of a prosthetic or prosthetic device.

*Provider.* A hospital or other institutional provider, a physician, or other individual professional provider, or other provider of services or supplies as specified in §199.6 of this part.

*Provider exclusion and suspension.* The terms "exclusion" and "suspension", when referring to a provider under CHAMPUS, both mean the denial of status as an authorized provider, resulting in items, services, or supplies furnished by the provider not being reimbursed, directly or indirectly, under CHAMPUS. The terms may be used interchangeably to refer to a provider who has been denied status as an authorized CHAMPUS provider based on

(1) a criminal conviction or civil judgment involving fraud, (2) an administrative finding of fraud or abuse under CHAMPUS, (3) an administrative finding that the provider has been excluded or suspended by another agency of the Federal Government, a state, or a local licensing authority, (4) an administrative finding that the provider has knowingly participated in a conflict of interest situation, or (5) an administrative finding that it is in the best interests of the CHAMPUS or CHAMPUS beneficiaries to exclude or suspend the provider.

*Provider termination.* When a provider's status as an authorized CHAMPUS provider is ended, other than through exclusion or suspension, based on a finding that the provider does not meet the qualifications, as set forth in §199.6 of this part, to be an authorized CHAMPUS provider.

*Psychiatric emergency.* A psychiatric inpatient admission is an emergency when, based on a psychiatric evaluation performed by a physician (or other qualified mental health care professional with hospital admission authority), the patient is at immediate risk of serious harm to self or others as a result of a mental disorder and requires immediate continuous skilled observation at the acute level of care.

*Public facility.* A public authority or entity legally constituted within a State (as defined in this section) to administer, control or perform a service function for public health, education or human services programs in a city, county, or township, special district, or other political subdivision, or such combination of political subdivisions or special districts or counties as are recognized as an administrative agency for a State's public health, education or human services programs, or any other public institution or agency having administrative control and direction of a publicly funded health, education or human services program.

*Public facility adequacy.* An available public facility shall be considered adequate when the Director, OCHAMPUS, or designee, determines that the quality, quantity, and frequency of an available service or item otherwise allowable as a CHAMPUS benefit is sufficient to meet the beneficiary's specific

disability related need in a timely manner.

*Public facility availability.* A public facility shall be considered available when the public facility usually and customarily provides the requested service or item to individuals with the same or similar disability related need as the otherwise equally qualified CHAMPUS beneficiary.

*Qualified accreditation organization.* A not-for-profit corporation or a foundation that:

- (1) Develops process standards and outcome standards for health care delivery programs, or knowledge standards and skill standards for health care professional certification testing, using experts both from within and outside of the health care program area or individual specialty to which the standards are to be applied;

- (2) Creates measurable criteria that demonstrate compliance with each standard;

- (3) Publishes the organization's standards, criteria and evaluation processes so that they are available to the general public;

- (4) Performs on-site evaluations of health care delivery programs, or provides testing of individuals, to measure the extent of compliance with each standard;

- (5) Provides on-site evaluation or individual testing on a national or international basis;

- (6) Provides to evaluated programs and tested individuals time-limited written certification of compliance with the organization's standards;

- (7) Excludes certification of any program operated by an organization which has an economic interest, as defined in this section, in the accreditation organization or in which the accreditation organization has an economic interest;

- (8) Publishes promptly the certification outcomes of each program evaluation or individual test so that it is available to the general public; and

- (9) Has been found by the Director, OCHAMPUS, or designee, to apply standards, criteria, and certification processes which reinforce CHAMPUS provider authorization requirements and promote efficient delivery of CHAMPUS benefits.

*Radiation therapy services.* The treatment of diseases by x-ray, radium, or radioactive isotopes when ordered by the attending physician.

*Rare diseases.* TRICARE/CHAMPUS defines a rare disease as any disease or condition that has a prevalence of less than 200,000 persons in the United States.

*Referral.* The act or an instance of referring a CHAMPUS beneficiary to another authorized provider to obtain necessary medical treatment. Under CHAMPUS, only a physician may make referrals.

*Registered nurse.* A person who is prepared specially in the scientific basis of nursing, who is a graduate of a school of nursing, and who is registered for practice after examination by a state board of nurse examiners or similar regulatory authority, who holds a current, valid license, and who is entitled legally to use the designation R.N.

*Rehabilitation.* The reduction of an acquired loss of ability to perform an activity in the manner, or within the range considered normal, for a human being.

*Rehabilitative therapy.* Any rehabilitative therapy that is necessary to improve, restore, or maintain function, or to minimize or prevent deterioration of function, of a patient and prescribed by a physician.

*Reliable evidence.* (1) As used in § 199.4(g)(15), the term reliable evidence means only:

- (i) Well controlled studies of clinically meaningful endpoints, published in refereed medical literature.

- (ii) Published formal technology assessments.

- (iii) The published reports of national professional medical associations.

- (iv) Published national medical policy organization positions; and

- (v) The published reports of national expert opinion organizations.

- (2) The hierarchy of reliable evidence of proven medical effectiveness, established by (1) through (5) of this paragraph, is the order of the relative weight to be given to any particular source. With respect to clinical studies, only those reports and articles containing scientifically valid data and published in the refereed medical and scientific literature shall be considered

as meeting the requirements of reliable evidence. Specifically not included in the meaning of reliable evidence are reports, articles, or statements by providers or groups of providers containing only abstracts, anecdotal evidence or personal professional opinions. Also not included in the meaning of reliable evidence is the fact that a provider or a number of providers have elected to adopt a drug, device, or medical treatment or procedure as their personal treatment or procedure of choice or standard of practice.

*Representative.* Any person who has been appointed by a party to the initial determination as counsel or advisor and who is otherwise eligible to serve as the counsel or advisor of the party to the initial determination, particularly in connection with a hearing.

*Reservist.* A person who is under an active duty call or order to one of the Uniformed Services for a period of 30 days or less or is on inactive training.

*Resident (medical).* A graduate physician or dentist who has an M.D. or D.O. degree, or D.D.S. or D.M.D. degree, respectively, is licensed to practice, and who choose to remain on the house staff of a hospital to get further training that will qualify him or her for a medical or dental specialty.

*Residential treatment center (RTC).* A facility (or distinct part of a facility) which meets the criteria in § 199.6(b)(4)(v).

*Respite care.* Respite care is short-term care for a patient in order to provide rest and change for those who have been caring for the patient at home, usually the patient's family.

*Retiree.* A member or former member of a Uniformed Service who is entitled to retired, retainer, or equivalent pay based on duty in a Uniformed Service.

*Routine eye examinations.* The services rendered in order to determine the refractive state of the eyes.

*Sanction.* For purpose of § 199.9, "sanction" means a provider exclusion, suspension, or termination.

*Secondary payer.* The plan or program whose medical benefits are payable in double coverage situations only after the primary payer has adjudicated the claim.

*Semiprivate room.* A room containing at least two beds. If a room is des-

ignated publicly as a semiprivate accommodation by the hospital or other authorized institutional provider and contains multiple beds, it qualifies as a semiprivate room for the purposes of CHAMPUS.

*Serious physical disability.* Any physiological disorder or condition or anatomical loss affecting one or more body systems which has lasted, or with reasonable certainty is expected to last, for a minimum period of 12 contiguous months, and which precludes the person with the disorder, condition or anatomical loss from unaided performance of at least one Major Life Activity as defined in this section.

*Skilled nursing facility.* An institution (or a distinct part of an institution) that meets the criteria as set forth in § 199.6(b)(4)(vi).

*Skilled nursing services.* Skilled nursing services includes application of professional nursing services and skills by an RN, LPN, or LVN, that are required to be performed under the general supervision/direction of a TRICARE-authorized physician to ensure the safety of the patient and achieve the medically desired result in accordance with accepted standards of practice.

*Spectacles, eyeglasses, and lenses.* Lenses, including contact lenses, that help to correct faulty vision.

*Speech generating device (SGD).* See Augmentative Communication Device.

*Sponsor.* A member or former member of a Uniformed Service upon whose status his or her dependents' eligibility for CHAMPUS is based. A sponsor also includes a person who, while a member of the Uniformed Services and after becoming eligible to be retired on the basis of years of service, has his or her eligibility to receive retired pay terminated as a result of misconduct involving abuse of a spouse or dependent child. It also includes NATO members who are stationed in or passing through the United States on official business when authorized. It also includes individuals eligible for CHAMPUS under the Transitional Assistance Management Program.

*Spouse.* A lawful husband or wife, who meets the criteria in § 199.3 of this part, regardless of whether or not dependent

upon the member or former member for his or her own support.

*State.* For purposes of this part, any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and each territory and possession of the United States.

*State victims of crime compensation programs.* Benefits available to victims of crime under the Violent Crime Control and Law Enforcement Act.

*Student status.* A dependent of a member or former member of a Uniformed Service who has not passed his or her 23rd birthday, and is enrolled in a full-time course of study in an institution of higher learning.

*Supplemental insurance plan.* A health insurance policy or other health benefit plan offered by a private entity to a CHAMPUS beneficiary, that primarily is designed, advertised, marketed, or otherwise held out as providing payment for expenses incurred for services and items that are not reimbursed under CHAMPUS due to program limitations, or beneficiary liabilities imposed by law. CHAMPUS recognizes two types of supplemental plans, general indemnity plans, and those offered through a direct service health maintenance organization (HMO).

(1) An indemnity supplemental insurance plan must meet all of the following criteria:

(i) It provides insurance coverage, regulated by state insurance agencies, which is available only to beneficiaries of CHAMPUS.

(ii) It is premium based and all premiums relate only to the CHAMPUS supplemental coverage.

(iii) Its benefits for all covered CHAMPUS beneficiaries are predominantly limited to non-covered services, to the deductible and cost-shared portions of the pre-determined allowable charges, and/or to amounts exceeding the allowable charges for covered services.

(iv) It provides insurance reimbursement by making payment directly to the CHAMPUS beneficiary or to the participating provider.

(v) It does not operate in a manner which results in lower deductibles or cost-shares than those imposed by law,

or that waives the legally imposed deductibles or cost-shares.

(2) A supplemental insurance plan offered by a Health Maintenance Organization (HMO) must meet all of the following criteria:

(i) The HMO must be authorized and must operate under relevant provisions of state law.

(ii) The HMO supplemental plan must be premium based and all premiums must relate only to CHAMPUS supplemental coverage.

(iii) The HMO's benefits, above those which are directly reimbursed by CHAMPUS, must be limited predominantly to services not covered by CHAMPUS and CHAMPUS deductible and cost-share amounts.

(iv) The HMO must provide services directly to CHAMPUS beneficiaries through its affiliated providers who, in turn, are reimbursed by CHAMPUS.

(v) The HMO's premium structure must be designed so that no overall reduction in the amount of the beneficiary deductibles or cost-shares will result.

*Suppliers of portable X-ray services.* A supplier that meets the conditions of coverage of the Medicare program, set forth in the Medicare regulations (42 CFR 405.1411 through 405.1416 (as amended)) or the Medicaid program in the state in which the covered service is provided.

*Surgery.* Medically appropriate operative procedures, including related pre-operative and postoperative care; reduction of fractures and dislocations; injections and needling procedures of the joints; laser surgery of the eye; and those certain procedures listed in § 199.4(c)(2)(i) of this part.

*Surgical assistant.* A physician (or dentist or podiatrist) who assists the operating surgeon in the performance of a covered surgical service when such assistance is certified as necessary by the attending surgeon, when the type of surgical procedure being performed is of such complexity and seriousness as to require a surgical assistant, and when interns, residents, or other house staff are not available to provide the surgical assistance services in the specialty area required.

*Suspension of claims processing.* The temporary suspension of processing (to

protect the government's interests) of claims for care furnished by a specific provider (whether the claims are submitted by the provider or beneficiary) or claims submitted by or on behalf of a specific CHAMPUS beneficiary pending action by the Director, OCHAMPUS, or a designee, in a case of suspected fraud or abuse. The action may include the administrative remedies provided for in §199.9 or any other Department of Defense issuance (e.g. DoD issuances implementing the Program Fraud Civil Remedies Act), case development or investigation by OCHAMPUS, or referral to the Department of Defense-Inspector General or the Department of Justice for action within their cognizant jurisdictions.

*Teaching physician.* A teaching physician is any physician whose duties include providing medical training to physicians in training within a hospital or other institutional provider setting.

*Third-party payer.* Third-payer means an entity that provides an insurance, medical service, or health plan by contract or agreement, including an automobile liability insurance or no fault insurance carrier and a worker's compensation program or plan, and any other plan or program (e.g., homeowners insurance) that is designed to provide compensation or coverage for expenses incurred by a beneficiary for medical services or supplies. For purposes of the definition of "third-party payer," an insurance, medical service, or health plan includes a preferred provider organization, an insurance plan described as Medicare supplemental insurance, and a personal injury protection plan or medical payments benefit plan for personal injuries resulting from the operation of a motor vehicle.

NOTE: TRICARE is secondary payer to all third-party payers. Under limited circumstances described in §199.8(c)(2) of this part, TRICARE payment may be authorized to be paid in advance of adjudication of the claim by certain third-party payers. TRICARE advance payments will not be made when a third-party provider is determined to be a primary medical insurer under §199.8(c)(3) of this part."

*Timely filing.* The filing of CHAMPUS claims within the prescribed time limits as set forth in §199.7 of this part.

*Transitional Assistance Management Program (TAMP).* The program established under 10 U.S.C. §1145(a) and §199.3(e) of this part.

*Treatment plan.* A detailed description of the medical care being rendered or expected to be rendered a CHAMPUS beneficiary seeking approval for inpatient benefits for which preauthorization is required as set forth in §199.4(b) of this part. A treatment plan must include, at a minimum, a diagnosis (either ICD-9-CM or DSM-III); detailed reports of prior treatment, medical history, family history, social history, and physical examination; diagnostic test results; consultant's reports (if any); proposed treatment by type (such as surgical, medical, and psychiatric); a description of who is or will be providing treatment (by discipline or specialty); anticipated frequency, medications, and specific goals of treatment; type of inpatient facility required and why (including length of time the related inpatient stay will be required); and prognosis. If the treatment plan involves the transfer of a CHAMPUS patient from a hospital or another inpatient facility, medical records related to that inpatient stay also are required as a part of the treatment plan documentation.

*TRICARE extra plan.* The health care option, provided as part of the TRICARE program under §199.17, under which beneficiaries may choose to receive care in facilities of the uniformed services, or from special civilian network providers (with reduced cost sharing), or from any other CHAMPUS-authorized provider (with standard cost sharing).

*TRICARE Hospital Outpatient Prospective Payment System (OPPS).* OPPS is a hospital outpatient prospective payment system, based on nationally established APC payment amounts and standardized for geographic wage differences that includes operating and capital-related costs that are directly related and integral to performing a procedure or furnishing a service in a hospital outpatient department.

*TRICARE prime plan.* The health care option, provided as part of the TRICARE program under §199.17, under which beneficiaries enroll to receive all



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health care from facilities of the uniformed services and civilian network providers (with civilian care subject to substantially reduced cost sharing.

*TRICARE program.* The program establish under § 199.17.

*TRICARE Reserve Select.* The program established under 10 U.S.C. 1076d and § 199.24 of this Part.

*TRICARE Retired Reserve.* The program established to allow members of the Retired Reserve who are qualified for non-regular retirement, but are not yet 60 years of age, as well as certain survivors to qualify to purchase medical coverage equivalent to the TRICARE Standard (and Extra) benefit unless that member is either enrolled in, or eligible to enroll in, a health benefit plan under Chapter 89 of Title 5, United States Code. The program benefits and requirements are set forth in section 25 of this Part.

*TRICARE standard plan.* The health care option, provided as part of the TRICARE program under § 199.17, under which beneficiaries are eligible for care in facilities of the uniformed services and CHAMPUS under standard rules and procedures.

*TRICARE Young Adult.* The program authorized by and described in § 199.26 of this part.

*Uniform HMO benefit.* The health care benefit established by § 199.18.

*Uniformed Services.* The Army, Navy, Air Force, Marine Corps, Coast Guard, Commissioned Corps of the USPHS, and the Commissioned Corps of the NOAA.

*Unlabeled or Off-label drugs.* Food and Drug Administration (FDA) approved drugs that are used for indications or treatments not included in the approved labeling. The drug must be medically necessary for the treatment of the condition for which it is administered, according to accepted standards of medical practice.

*Veteran.* A person who served in the active military, naval, or air service, and who was discharged or released therefrom under conditions other than dishonorable.

NOTE: Unless the veteran is eligible for “retired pay,” “retirement pay,” or “retainer pay,” which refers to payments of a continuing nature and are payable at fixed intervals from the government for military

service neither the veteran nor his or her dependents are eligible for benefits under CHAMPUS.

*Waiver of benefit limits.* Extension of current benefit limitations under the Case Management Program, of medical care, services, and/or equipment, not otherwise a benefit under the TRICARE/CHAMPUS program.

*Well-child care.* A specific program of periodic health screening, developmental assessment, and routine immunization for dependents under six years of age.

*Widow or Widower.* A person who was a spouse at the time of death of a member or former member and who has not remarried.

*Worker’s compensation benefits.* Medical benefits available under any worker’s compensation law (including the Federal Employees Compensation Act), occupational disease law, employers liability law, or any other legislation of similar purpose, or under the maritime doctrine of maintenance, wages, and cure.

*X-ray services.* An x-ray examination from which an x-ray film or other image is produced, ordered by the attending physician when necessary and rendered in connection with a medical or surgical diagnosis or treatment of an illness or injury, or in connection with maternity or well-baby care.

[51 FR 24008, July 1, 1986]

EDITORIAL NOTES: 1. At 66 FR 45172, Aug. 28, 2001, § 199.2, was amended in part by revising the definition of “Director, OCHAMPUS”; however, this amendment could not be incorporated due to inaccurate amendatory instruction.

2. For FEDERAL REGISTER citations affecting § 199.2, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at [www.fdsys.gov](http://www.fdsys.gov).

EFFECTIVE DATE NOTE: At 77 FR 38178, June 27, 2012, § 199.2(b) was amended by removing the definition of “Unlabeled or Off-label drugs” and adding a new definition of “Off-label use of a drug or device” in alphabetical order, effective July 27, 2012. For the convenience of the user, the added text is set forth as follows:

### § 199.2 Definitions.

\* \* \* \* \*

(b) \* \* \*

\* \* \* \* \*

*Off-label use of a drug or device.* A use other than an intended use for which the prescription drug, biologic or device is legally marketed under the Federal Food, Drug, and Cosmetic Act or the Public Health Services Act. This includes any use that is not included in the approved labeling for an approved drug, licensed biologic, approved device or combination product; any use that is not included in the cleared statement of intended use for a device that has been determined by the Food and Drug Administration (FDA) to be substantially equivalent to a legally marketed predicate device and cleared for marketing; and any use of a device for which a manufacturer or distributor would be required to seek pre-market review by the FDA in order to legally include that use in the device's labeling.

\* \* \* \* \*

### § 199.3 Eligibility.

(a) *General.* This section sets forth those persons who, by the provisions of 10 U.S.C. chapter 55, and the NATO Status of Forces Agreement, are eligible for CHAMPUS benefits. A determination that a person is eligible does not automatically entitle such a person to CHAMPUS payments. Before any CHAMPUS benefits may be extended, additional requirements, as set forth in other sections of this part, must be met. Additionally, the use of CHAMPUS may be denied if a Uniformed Service medical treatment facility capable of providing the needed care is available. CHAMPUS relies primarily on the Defense Enrollment Eligibility Reporting System (DEERS) for eligibility verification.

(b) *CHAMPUS eligibles*—(1) *Retiree.* A member or former member of a Uniformed Service who is entitled to retired, retainer, or equivalent pay based on duty in a Uniformed Service.

(2) *Dependent.* Individuals whose relationship to the sponsor leads to entitlement to benefits. CHAMPUS eligible dependents include the following:

(i) *Spouse.* A lawful husband or wife of a member or former member. The spouse of a deceased member or retiree must not be remarried. A former spouse also may qualify for benefits as a dependent spouse. A former spouse is

a spouse who was married to a military member, or former member, but whose marriage has been terminated by a final decree of divorce, dissolution or annulment. To be eligible for CHAMPUS benefits, a former spouse must meet the criteria described in paragraphs (b)(2)(i)(A) through (b)(2)(i)(E) of this section *and* must qualify under the group defined in paragraph (b)(2)(i)(F)(I) or (b)(2)(i)(F)(2) of this section.

(A) Must be unremarried; and

(B) Must not be covered by an employer-sponsored health plan; and

(C) Must have been married to a member or former member who performed at least 20 years of service which can be credited in determining the member's or former member's eligibility for retired or retainer pay; and

(D) Must not be eligible for Part A of Title XVIII of the Social Security Act (Medicare) except as provided in paragraphs (b)(3), (f)(3)(vii), (f)(3)(viii), and (f)(3)(ix) of this section; and

(E) Must not be the dependent of a NATO member; *and*

(F) Must meet the requirements of paragraph (b)(2)(i)(F)(I) or (b)(2)(i)(F)(2) of this section:

(I) The former spouse must have been married to the same member or former member for at least 20 years, at least 20 of which were creditable in determining the member's or former member's eligibility for retired or retainer pay. Eligibility continues indefinitely unless affected by any of the conditions of paragraphs (b)(2)(i)(A) through (b)(2)(i)(E) of this section.

(i) If the date of the final decree of divorce, dissolution, or annulment was before February 1, 1983, the former spouse is eligible for CHAMPUS coverage of health care received on or after January 1, 1985.

(ii) If the date of the final decree of the divorce, dissolution, or annulment was on or after February 1, 1983, the former spouse is eligible for CHAMPUS coverage of health care which is received on or after the date of the divorce, dissolution, or annulment.

(2) The former spouse must have been married to the same member or former member for at least 20 years, and at