§ 700.843 Permitting procedures for Navajo Nation Lands.

(a) Pursuant to the Act and this Subpart, the written consent of the Navajo Nation is required. Written consent shall consist of a Navajo Nation permit issued in accordance with the Navajo Nation Code or a resolution of the Navajo Nation Council or delegated committee of that Council.

(b) When Indian tribal lands are involved in an application for a permit or a request for extension or modification of a permit, the consent of the Indian tribal government must be obtained. For Indian allotted lands outside reservation boundaries, consent from only the individual landowner is needed. When multiple-owner allotted lands are involved, consent by more than 50 percent of the ownership interest is sufficient. For Indian allotted lands within reservation boundaries, consent must be obtained from the Navajo Nation and the individual landowner(s).

(c) The applicant should consult with the Office concerning procedures for obtaining consent from the appropriate Indian tribal authorities and submit the permit application to the Office. The Office shall ensure that consultation with the Navajo Nation or individual Indian landowner regarding terms and conditions of the permit occurs prior to detailed evaluation of the application. Permits shall include terms and conditions requested by the Navajo Nation or Indian landowner pursuant to § 700.817 of this part.

(d) The issuance of a permit under this part does not remove the requirement for any other permit by Indian tribal law.


Christopher J. Bavasi,
Executive Director, Office of Navajo and Hopi Indian Relocation.

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I. Program for Persons With Disabilities (PFPWD)

On June 10, 1991, a proposed rule was published in the Federal Register (56 FR 26635) regarding administrative revisions to the CHAMPUS Program for the Handicapped (PFPWD), which included renaming these benefits the Program for Persons with Disabilities (PFPWD).

By law, PFPWD benefits are limited to spouses or children with a disability, who have an active duty Uniformed Service Member sponsor, or who are determined to be an abused dependent of certain former Members. Unlike the basic benefit, the PFPWD applies a fixed, pay-grade based cost-share amount regardless of the amount of expense allowable as a benefit (basic benefit beneficiary cost-share is a percentage of the allowed amount), has no annual deductible amount, includes certain necessary services and items that are not medical in nature, and has a $1,000 per month benefit limit for most beneficiaries.

A distinctive aspect of the PFPWD is the statutory requirement that ties eligibility for benefits to the use of public facilities to the extent that such facilities are available and adequate to meet a specific disability related need. CHAMPUS PFPWD benefits do not alter the obligations which Section 504 of the Rehabilitation Act, as amended, and the Americans with Disabilities Act, as amended, places upon CHAMPUS providers, nor are CHAMPUS benefits a substitute for special education and related services associated with a free appropriate public education which the Individuals with Disabilities Education Act, as amended, makes available.

Comment: Two comments noted that this rule should use the type of language currently preferred by the disability community. The terms "handicap" and "handicapped" are no longer acceptable. The preferred forms are "disability" and "persons with disabilities."

Response: We have renamed the Program for the Handicapped (PFTTH) the Program for Persons with Disabilities (PFPWD). This name change recognizes that the term "handicapped" presumes an unavoidable consequence of illness or injury that unnecessarily discounts the capabilities of every CHAMPUS beneficiary with a disability. Editorial changes throughout the final rule are responsive to current terminology preferences.

Comment: The statement that PFPWD beneficiaries reside, with few exceptions, within Military Treatment Facility catchment areas, and that the proposed change will facilitate beneficiary access to needed services and items is not true for the other three Uniformed Services and could adversely affect the Coast Guard, the Public Health Service, and the National Oceanic and Atmospheric Administration.

Response: We are aware that MHSS beneficiaries with sponsors in these Uniformed Services are not usually within a military hospital's catchment area. PFPWD eligibility determination, benefit authorization, and related support, will continue to be available through the network of regional CHAMPUS contractors.

Comment: A PFPWD qualifying condition is required to be certified again at least every 36 months. For certain conditions (i.e. severe mental retardation, cerebral palsy with paralysis, muscular dystrophy, missing essential body parts, etc.) there will never be a change in PFPWD clinical eligibility. A list of conditions which do not require frequent certification should be used.

Response: We have removed the 36 month review requirement. Rather than a list, reviews will now be based upon the prognosis for a change in the qualifying condition.

Comment: One comment recommended extending PFPWD benefits to retired members because, in many cases, beneficiaries will never lose their dependence on the sponsor.

Response: The limitation of PFPWD benefits to dependents of active duty uniformed service members is a requirement of the law that authorizes PFPWD benefits.

Comment: Two comments noted that the provisions for transportation should allow movement from one State to another when necessary to obtain care. The proposed change will facilitate beneficiary access to needed services and items despite any barriers to transportation (i.e. Geographic Facility catchment areas, and that the proposed change will facilitate beneficiary access to needed services and items is not true for the other three Uniformed Services and could adversely affect the Coast Guard, the Public Health Service, and the National Oceanic and Atmospheric Administration.

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