

would apply until Oct. 1, 1991, in the case of health care provided under that section to the dependents of a member of the uniformed services who had served on active duty in the Persian Gulf theater of operations in connection with Operation Desert Storm, and that patient copayment requirements could be waived upon the provider's certification to the Secretary of Defense that the amount charged the Federal Government for such health care had not been increased above the amount that the provider would have charged the Federal Government for such health care had the payment not been waived.

**TRANSITIONAL HEALTH CARE FOR MEMBERS, OR DEPENDENTS OF MEMBERS, UPON RELEASE OF MEMBER FROM ACTIVE DUTY IN CONNECTION WITH OPERATION DESERT STORM**

For provision authorizing transitional health care, including health benefits contracted for under subsec. (a) of this section, for members, or dependents of members, upon release of member from active duty in connection with Operation Desert Storm, see section 313 of Pub. L. 102-25, set out as a note under section 1076 of this title.

**§ 1079a. TRICARE program: treatment of refunds and other amounts collected**

All refunds and other amounts collected in the administration of the TRICARE program shall be credited to the appropriation available for that program for the fiscal year in which the refund or amount is collected.

(Added Pub. L. 104-201, div. A, title VII, § 733(a)(1), Sept. 23, 1996, 110 Stat. 2597; amended Pub. L. 114-328, div. A, title VII, § 701(j)(1)(D), Dec. 23, 2016, 130 Stat. 2192.)

**Editorial Notes**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in the following appropriations acts:

Pub. L. 104-61, title VIII, § 8094, Dec. 1, 1995, 109 Stat. 671.

Pub. L. 103-335, title VIII, § 8144, Sept. 30, 1994, 108 Stat. 2656.

**AMENDMENTS**

2016—Pub. L. 114-328 substituted “TRICARE program” for “CHAMPUS” in section catchline and “the TRICARE program” for “the Civilian Health and Medical Program of the Uniformed Services” in text.

**Statutory Notes and Related Subsidiaries**

**EFFECTIVE DATE OF 2016 AMENDMENT**

Amendment by Pub. L. 114-328 applicable with respect to the provision of health care under the TRICARE program beginning on Jan. 1, 2018, see section 701(k) of Pub. L. 114-328, set out as a note under section 1072 of this title.

**§ 1079b. Procedures for charging fees for care provided to civilians; retention and use of fees collected**

(a) REQUIREMENT TO IMPLEMENT PROCEDURES.—The Secretary of Defense shall implement procedures under which a military medical treatment facility may charge civilians who are not covered beneficiaries (or their insurers) fees representing the costs, as determined by the Secretary, of trauma and other medical care provided to such civilians.

(b) WAIVER OF FEES.—The Director of the Defense Health Agency may issue a waiver for a fee

that would otherwise be charged under the procedures implemented under subsection (a) to a civilian provided medical care who is not a covered beneficiary if the provision of such care enhances the knowledge, skills, and abilities of health care providers, as determined by the Director of the Defense Health Agency.

(c) MODIFIED PAYMENT PLAN FOR CERTAIN CIVILIANS.—(1)(A) If a civilian specified in subsection (a) is covered by a covered payer at the time care under this section is provided, the civilian shall only be responsible to pay the standard copays, coinsurance, deductibles, or nominal fees that are otherwise applicable under the covered payer plan.

(B) Except with respect to the copays, coinsurance, deductibles, and nominal fees specified in subparagraph (A)—

(i) the Secretary of Defense may bill only the covered payer for care provided to a civilian described in subparagraph (A); and

(ii) payment received by the Secretary from the covered payer of a civilian for care provided under this section that is provided to the civilian shall be considered payment in full for such care.

(2) If a civilian specified in subsection (a) does not meet the criteria under paragraph (1), is underinsured, or has a remaining balance and is at risk of financial harm, the Director of the Defense Health Agency shall reduce each fee that would otherwise be charged to the civilian under this section according to a sliding fee discount program, as prescribed by the Director of the Defense Health Agency.

(3) If a civilian specified in subsection (a) does not meet the criteria under paragraph (1) or (2), the Director of the Defense Health Agency shall implement an additional catastrophic waiver to prevent severe financial harm.

(4) The modified payment plan under this subsection may not be administered by a Federal agency other than the Department of Defense.

(d) USE OF FEES COLLECTED.—A military medical treatment facility may retain and use the amounts collected under subsection (a) for—

- (1) trauma consortium activities;
- (2) administrative, operating, and equipment costs; and
- (3) readiness training.

(e) DEFINITIONS.—In this section:

(1) The term “covered payer” means a third-party payer or other insurance, medical service, or health plan.

(2) The terms “third-party payer” and “insurance, medical service, or health plan” have the meaning given those terms in section 1095(h) of this title.

(Added Pub. L. 107-107, div. A, title VII, § 732(a)(1), Dec. 28, 2001, 115 Stat. 1169; amended Pub. L. 116-283, div. A, title VII, § 702, Jan. 1, 2021, 134 Stat. 3686; Pub. L. 117-263, div. A, title VII, § 716(a), (b), Dec. 23, 2022, 136 Stat. 2661.)

**Editorial Notes**

**AMENDMENTS**

2022—Subsec. (b). Pub. L. 117-263, § 716(a)(1), amended subsec. (b) generally. Prior to amendment, text read as follows: “The Secretary may waive a fee that would

otherwise be charged under the procedures implemented under subsection (a) to a civilian who is not a covered beneficiary if—

“(1) the civilian is unable to pay for the costs of the trauma or other medical care provided to the civilian (including any such costs remaining after the Secretary receives payment from an insurer for such care, as applicable); and

“(2) the provision of such care enhances the knowledge, skills, and abilities of health care providers, as determined by the Secretary.”

Subsecs. (c), (d). Pub. L. 117-263, §716(a)(2), (b)(1), added subsec. (c) and redesignated former subsec. (c) as (d).

Subsec. (e). Pub. L. 117-263, §716(b)(2), added subsec. (e).

2021—Subsecs. (b), (c). Pub. L. 116-283 added subsec. (b) and redesignated former subsec. (b) as (c).

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 2022 AMENDMENT

Pub. L. 117-263, div. A, title VII, §716(c), Dec. 23, 2022, 136 Stat. 2661, provided that: “The amendments made by subsections (a) and (b) [amending this section] shall apply with respect to care provided on or after the date that is 180 days after the date of the enactment of this Act [Dec. 23, 2022].”

#### IMPROVED IMPLEMENTATION OF FINANCIAL RELIEF FOR CIVILIANS TREATED IN MILITARY MEDICAL TREATMENT FACILITIES

Pub. L. 118-159, div. A, title VII, §717, Dec. 23, 2024, 138 Stat. 1949, provided that:

“(a) FINAL RULE REQUIRED.—The Secretary of Defense shall issue a final rule (or interim final rule) to implement as soon as possible after the date of the enactment of this Act [Dec. 23, 2024] section 1079b of title 10, United States Code.

“(b) TREATMENT OF CLAIMS.—

“(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall hold in abeyance any claims under section 1079b of title 10, United States Code, until the final rule (or interim final rule) required under subsection (a) is in effect.

“(2) EXCEPTION.—Paragraph (1) does not apply to—

“(A) claims to third-party payers; or

“(B) administrative support provided to the Secretary by another Federal agency to assist the Secretary in the administration of section 1079b of title 10, United States Code.”

##### DEADLINE FOR IMPLEMENTATION

Pub. L. 107-107, div. A, title VII, §732(b), Dec. 28, 2001, 115 Stat. 1170, directed the Secretary of Defense to begin to implement the procedures required by subsec. (a) of this section not later than one year after Dec. 28, 2001.

#### § 1079c. Provisional coverage for emerging services and supplies

(a) PROVISIONAL COVERAGE.—In carrying out the TRICARE program, including pursuant to section 1079(a)(12) of this title, the Secretary of Defense, acting through the Assistant Secretary of Defense for Health Affairs, may provide provisional coverage for the provision of a service or supply if the Secretary determines that such service or supply is widely recognized in the United States as being safe and effective.

(b) CONSIDERATION OF EVIDENCE.—In making a determination under subsection (a), the Secretary may consider—

(1) clinical trials published in refereed medical literature;

(2) formal technology assessments;

(3) the positions of national medical policy organizations;

(4) national professional associations;

(5) national expert opinion organizations; and

(6) such other validated evidence as the Secretary considers appropriate.

(c) INDEPENDENT EVALUATION.—In making a determination under subsection (a), the Secretary may arrange for an evaluation from the Institute of Medicine of the National Academies or such other independent entity as the Secretary selects.

(d) DURATION AND TERMS OF COVERAGE.—(1) Provisional coverage under subsection (a) for a service or supply may be in effect for not longer than a total of five years.

(2) Prior to the expiration of provisional coverage of a service or supply, the Secretary shall determine the coverage, if any, that will follow such provisional coverage and take appropriate action to implement such determination. If the Secretary determines that the implementation of such determination regarding coverage requires legislative action, the Secretary shall make a timely recommendation to Congress regarding such legislative action.

(3) The Secretary, at any time, may—

(A) terminate the provisional coverage under subsection (a) of a service or supply, regardless of whether such termination is before the end of the period described in paragraph (1);

(B) establish or disestablish terms and conditions for such coverage; or

(C) take any other action with respect to such coverage.

(e) PUBLIC NOTICE.—The Secretary shall promptly publish on a publicly accessible Internet website of the TRICARE program a notice for each service or supply that receives provisional coverage under subsection (a), including any terms and conditions for such coverage.

(f) FINALITY OF DETERMINATIONS.—Any determination to approve or disapprove a service or supply under subsection (a) and any action made under subsection (d)(3) shall be final.

(Added Pub. L. 113-291, div. A, title VII, §704(a), Dec. 19, 2014, 128 Stat. 3412.)

#### § 1080. Contracts for medical care for spouses and children: election of facilities

(a) ELECTION.—A dependent covered by section 1079 of this title may elect to receive inpatient medical care either in (1) the facilities of the uniformed services, under the conditions prescribed by sections 1076-1078 of this title, or (2) the facilities provided under a plan contracted for under section 1079 of this title. However, under such regulations as the Secretary of Defense, after consulting the other administering Secretaries, may prescribe, the right to make this election may be limited for dependents residing in the area where the member concerned is assigned, if adequate medical facilities of the uniformed services are available in that area for those dependents.

(b) ISSUANCE OF NONAVAILABILITY-OF-HEALTH-CARE STATEMENTS.—In determining whether to