

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

issue a nonavailability-of-health-care statement for a dependent described in subsection (a), the commanding officer of a facility of the uniformed services may consider the availability of health care services for the dependent pursuant to any contract or agreement entered into under this chapter for the provision of health care services. Notwithstanding any other provision of law, with respect to obstetrics and gynecological care for beneficiaries not enrolled in a managed care plan offered pursuant to any contract or agreement under this chapter, a nonavailability-of-health-care statement shall be required for receipt of health care services related to outpatient prenatal, outpatient or inpatient delivery, and outpatient post-partum care subsequent to the visit which confirms the pregnancy.

(c) **WAIVERS AND EXCEPTIONS TO REQUIREMENTS.**—(1) A covered beneficiary enrolled in a managed care plan offered pursuant to any contract or agreement under this chapter for the provision of health care services shall not be required to obtain a nonavailability-of-health-care statement as a condition for the receipt of health care.

(2) The Secretary of Defense may waive the requirement to obtain nonavailability-of-health-care statements following an evaluation of the effectiveness of such statements in optimizing the use of facilities of the uniformed services.

(Added Pub. L. 85-861, §1(25)(B), Sept. 2, 1958, 72 Stat. 1449; amended Pub. L. 96-513, title V, §511(36), Dec. 12, 1980, 94 Stat. 2923; Pub. L. 98-557, §19(8), Oct. 30, 1984, 98 Stat. 2870; Pub. L. 103-160, div. A, title VII, §716(b)(1), Nov. 30, 1993, 107 Stat. 1692; Pub. L. 104-201, div. A, title VII, §734(a)(1), (b)(1), (c), Sept. 23, 1996, 110 Stat. 2598; Pub. L. 106-65, div. A, title VII, §712(c), Oct. 5, 1999, 113 Stat. 687.)

#### HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
1080 .....	37:411(c).	June 7, 1956, ch. 374, §201(c), 70 Stat. 252.

The words “a plan contracted for under section 1079 of this title” are substituted for the words “such insurance, medical service, or health plan or plans as may be provided by the authority contained in this section”. The words “under the terms of this chapter” are omitted as surplusage.

#### Editorial Notes

##### PRIOR PROVISIONS

A prior section 1080, act Aug. 10, 1956, ch. 1041, 70A Stat. 85, related to style and marking of envelopes, inserts, return envelopes, and to weight of ballots, prior to repeal by Pub. L. 85-861, §36B(5), Sept. 2, 1958, 72 Stat. 1570, as superseded by the Federal Voting Assistance Act of 1955 which is classified to subchapter I-D (§1973cc et seq.) of chapter 20 of Title 42, The Public Health and Welfare.

##### AMENDMENTS

1999—Subsec. (b). Pub. L. 106-65 inserted at end “Notwithstanding any other provision of law, with respect to obstetrics and gynecological care for beneficiaries not enrolled in a managed care plan offered pursuant to any contract or agreement under this chapter, a nonavailability-of-health-care statement shall be required

for receipt of health care services related to outpatient prenatal, outpatient or inpatient delivery, and outpatient post-partum care subsequent to the visit which confirms the pregnancy.”

1996—Subsec. (a). Pub. L. 104-201, §734(a)(1), inserted “inpatient” before “medical care” in first sentence.

Subsec. (b). Pub. L. 104-201, §734(c), substituted “Nonavailability-of-Health-Care Statements” for “Nonavailability of Health Care Statements” in heading and “nonavailability-of-health-care statement” for “nonavailability of health care statement” in text.

Subsec. (c). Pub. L. 104-201, §734(b)(1), added subsec. (c).

1993—Pub. L. 103-160 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

1984—Pub. L. 98-557 substituted reference to administering Secretaries for reference to Secretary of Health and Human Services.

1980—Pub. L. 96-513 substituted “Secretary of Health and Human Services” for “Secretary of Health, Education, and Welfare”.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96-513, set out as a note under section 101 of this title.

#### § 1081. Contracts for medical care for spouses and children: review and adjustment of payments

Each plan under section 1079 of this title shall provide for a review, and if necessary an adjustment of payments, by the appropriate administering Secretary, not later than 120 days after the close of each year the plan is in effect.

(Added Pub. L. 85-861, §1(25)(B), Sept. 2, 1958, 72 Stat. 1449; amended Pub. L. 96-513, title V, §511(36), Dec. 12, 1980, 94 Stat. 2923; Pub. L. 97-375, title I, §104(a), Dec. 21, 1982, 96 Stat. 1819; Pub. L. 98-94, title XII, §1268(5)(A), Sept. 24, 1983, 97 Stat. 706; Pub. L. 98-557, §19(9), Oct. 30, 1984, 98 Stat. 2870.)

#### HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
1081 .....	37:412.	June 7, 1956, ch. 374, §202, 70 Stat. 253.

The words “Each plan under section 1079 of this title” are substituted for the words “Any insurance, medical service, or health plan or plans which may be entered into by the Secretary of Defense with respect to medical care under the provisions of this chapter”. The words “after the close of each year the plan is in effect” are substituted for the words “after the first year the plan or plans have been in effect and each year thereafter”. The words “Not later than” are substituted for the word “within”.

#### Editorial Notes

##### PRIOR PROVISIONS

A prior section 1081, act Aug. 10, 1956, ch. 1041, 70A Stat. 86, related to notification of elections, prior to repeal by Pub. L. 85-861, §36B(5), Sept. 2, 1958, 72 Stat. 1570, as superseded by the Federal Voting Assistance Act of 1955 which is classified to subchapter I-D (§1973cc et seq.) of chapter 20 of Title 42, The Public Health and Welfare.

##### AMENDMENTS

1984—Pub. L. 98-557 substituted reference to appropriate administering Secretary for reference to Sec-