retired pay is increased under section 1401a of this title.

(Added Pub. L. 99–661, div. A, title VII, §701(a)(1), Nov. 14, 1986, 100 Stat. 3895; amended Pub. L. 103–337, div. A, title VII, §§713, 714(a), Oct. 5, 1994, 108 Stat. 2802; Pub. L. 104–106, div. A, title VII, §§712, 713, Feb. 10, 1996, 110 Stat. 374; Pub. L. 109–364, div. A, title VII, §704(a), Oct. 17, 2006, 120 Stat. 2280; Pub. L. 110–181, div. A, title VII, §701(a), Jan. 28, 2008, 122 Stat. 187; Pub. L. 110–417, [div. A], title VII, §701(a), Oct. 14, 2008, 122 Stat. 4498; Pub. L. 111–383, div. A, title VII, §701(a), Jan. 7, 2011, 124 Stat. 4244; Pub. L. 112–81, div. A, title VII, §701(a), Dec. 31, 2011, 125 Stat. 1469.)

Editorial Notes

AMENDMENTS

2011—Subsec. (e). Pub. L. 112–81 designated existing provisions as par. (1), substituted ''Except as provided by paragraph (2), a premium,'' for ''A premium,'', and added par. (2).

Subsec. (e). Pub. L. 111–383 substituted ''September 30, 2011'' for ''September 30, 2009''.

2008—Subsec. (e). Pub. L. 110–417 substituted ''September 30, 2009'' for ''September 30, 2008''.

Pub. L. 110–181 substituted ''September 30, 2008'' for ''September 30, 2007''.

2006—Subsec. (e). Pub. L. 109–364 inserted at end ''A premium, deductible, copayment, or other charge prescribed by the Secretary under this subsection may not be increased during the period beginning on April 1, 2006, and ending on September 30, 2007.''

1996—Subsec. (c). Pub. L. 104–106, §712, substituted ''Notwithstanding the preferences established by sections 1074(b) and 1076 of this title, the Secretary shall'' for ''However, the Secretary may''.

Subsec. (e). Pub. L. 104–106, §713, inserted at end ''Without imposing additional costs on covered beneficiaries who participate in contracts for health care services under this section or health care plans offered under section 1099 of this title, the Secretary shall permit such covered beneficiaries to pay, on a quarterly basis, any enrollment fee required for such participation.''

1994—Subsec. (c). Pub. L. 103–337, §714(a)(2), added subsec. (c). Former subsec. (c) redesignated (e).

Pub. L. 103–337, §713, inserted at end ''In the case of contracts for health care services under this section or health care plans offered under section 1099 of this title for which the Secretary permits covered beneficiaries who are covered by section 1086 of this title and who participate in such contracts or plans to pay an enrollment fee in lieu of meeting the applicable deductible amount specified in section 1086(b) of this title, the Secretary may establish the same (or a lower) enrollment fee for covered beneficiaries described in section 1086(d)(1) of this title who also participate in such contracts or plans.''

Subsecs. (d), (e). Pub. L. 103–337, §714(a), added subsec. (d) and redesignated former subsec. (c) as (e).

Statutory Notes and Related Subsidiaries

CLARIFICATION OF APPLICATION FOR FISCAL YEAR 2013

Pub. L. 112–81, div. A, title VII, §701(b), Dec. 31, 2011, 125 Stat. 1469, provided that: ''The Secretary of Defense shall determine the maximum enrollment fees for TRICARE Prime under section 1097(e)(2) of title 10, United States Code, as added by subsection (a), for fiscal year 2013 and thereafter as if the enrollment fee for each enrollee during fiscal year 2012 was the amount charged to an enrollee who enrolled for the first time during such fiscal year.''

§ 1097a. TRICARE Prime: automatic enrollments

(a) AUTOMATIC ENROLLMENT OF CERTAIN DEPENDENTS.—(1) In the case of a dependent of a member of the uniformed services who is entitled to medical and dental care under section 1076(a)(2)(A) of this title and resides in a catchment area in which TRICARE Prime is offered, the Secretary—

(A) shall automatically enroll the dependent in TRICARE Prime if the member is in pay grade E–4 or below; and

(B) may automatically enroll the dependent in TRICARE Prime if the member is in pay grade E–5 or higher.

(2) Whenever a dependent of a member is enrolled in TRICARE Prime under paragraph (1), the Secretary concerned shall provide written notice of the enrollment to the member.

(3) The enrollment of a dependent of the member may be terminated by the member or the dependent at any time.

(b) AUTOMATIC RENEWAL OF ENROLLMENTS OF COVERED BENEFICIARIES.—An enrollment of a covered beneficiary in TRICARE Prime shall be automatically renewed upon the expiration of the enrollment unless the renewal is declined.

(c) REGULATIONS AND EXCEPTIONS.—The Secretary of Defense shall prescribe regulations, including procedures, to carry out this section. Regulations prescribed to carry out the automatic enrollment requirements under this section may include such exceptions to the automatic enrollment procedures as the Secretary determines appropriate for the effective operation of TRICARE Prime.

(d) NO COPAYMENT FOR IMMEDIATE FAMILY.—No copayment shall be charged a member for care provided under TRICARE Prime to a dependent of a member of the uniformed services described in subparagraph (A), (D), or (I) of section 1072(2) of this title.

(e) AUTHORITY FOR MULTIPLE NETWORKS IN THE SAME GEOGRAPHIC AREA.—(1) The Secretary may establish a system of multiple networks of providers under TRICARE Prime in the same geographic area or areas.

(2) Under a system established under paragraph (1), the Secretary may require a covered beneficiary enrolling in TRICARE Prime to enroll in a specific provider network established pursuant to such system, in which case any provider not in that specific provider network shall be deemed an out-of-network provider with respect to the covered beneficiary (regardless of whether the provider is in a different TRICARE Prime provider network) for purposes of this section or any other provision of law limiting the coverage or provision of health care services to those provided by network providers under the TRICARE program.

(f) DEFINITIONS.—In this section:

(1) The term ''TRICARE Prime'' means the managed care option of the TRICARE program.

(2) The term ''catchment area'', with respect to a facility of a uniformed service, means the service area of the facility, as designated under regulations prescribed by the administering Secretaries.

(Added Pub. L. 105–261, div. A, title VII, §712(a)(1), Oct. 17, 1998, 112 Stat. 2058; amended

Pub. L. 106–398, §1 [[div. A], title VII, §752(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A–195; Pub. L. 107–107, div. A, title X, §1048(a)(11), Dec. 28, 2001, 115 Stat. 1223; Pub. L. 112–239, div. A, title VII, §711, Jan. 2, 2013, 126 Stat. 1801; Pub. L. 114–328, div. A, title VII, §723, Dec. 23, 2016, 130 Stat. 2229; Pub. L. 116–92, div. A, title VII, §702(b)(1), (2)(A), Dec. 20, 2019, 133 Stat. 1436; Pub. L. 117–81, div. A, title VII, §703(b), Dec. 27, 2021, 135 Stat. 1779.)

Editorial Notes

AMENDMENTS

2021—Subsecs. (e), (f). Pub. L. 117–81 added subsec. (e) and redesignated former subsec. (e) as (f).

2019—Pub. L. 116–92, §702(b)(2)(A), struck out ''; payment options'' after ''enrollments'' in section catchline.

Subsecs. (c) to (f). Pub. L. 116–92, §702(b)(1), redesignated subsecs. (d), (e), and (f) as (c), (d), and (e), respectively, and struck out former subsec. (c) which read as follows: ''PAYMENT OPTIONS FOR RETIREES.—A member or former member of the uniformed services eligible for medical care and dental care under section 1074(b) of this title may elect to have any fee payable by the member or former member for an enrollment in TRICARE Prime withheld from the member's retired pay, retainer pay, or equivalent pay, as the case may be, or to be paid from a financial institution through electronic transfers of funds. The fee shall be paid in accordance with the election. A member may elect under this section to pay the fee in full at the beginning of the enrollment period or to make payments on a monthly or quarterly basis.''

2016—Subsec. (b). Pub. L. 114–328 struck out par. (1) designation before ''An enrollment'' and struck out par. (2) which read as follows: ''Not later than 15 days before the expiration date for an enrollment of a covered beneficiary in TRICARE Prime, the Secretary concerned shall—

''(A) transmit a written notification of the pending expiration and renewal of enrollment to the covered beneficiary or, in the case of a dependent of a member of the uniformed services, to the member; and

''(B) afford the beneficiary or member, as the case may be, an opportunity to decline the renewal of enrollment.''

2013—Subsec. (a). Pub. L. 112–239 amended subsec. (a) generally. Prior to amendment, text read as follows: ''Each dependent of a member of the uniformed services in grade E4 or below who is entitled to medical and dental care under section 1076(a)(2)(A) of this title and resides in the catchment area of a facility of a uniformed service offering TRICARE Prime shall be automatically enrolled in TRICARE Prime at the facility. The Secretary concerned shall provide written notice of the enrollment to the member. The enrollment of a dependent of the member may be terminated by the member or the dependent at any time.''

2001—Subsec. (e). Pub. L. 107–107 substituted ''section 1072(2)'' for ''section 1072''.

2000—Subsecs. (e), (f). Pub. L. 106–398 added subsec. (e) and redesignated former subsec. (e) as (f).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2019 AMENDMENT

Pub. L. 116–92, div. A, title VII, §702(c), Dec. 20, 2019, 133 Stat. 1437, provided that: ''The amendments made by this section [amending this section and section 1099 of this title] shall apply to health care coverage beginning on or after January 1, 2021.''

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106–398, §1 [[div. A], title VII, §752(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A–195, provided that: ''The amendments made by subsection (a) [amending this section] shall take effect 180 days after the date of the enactment of this Act [Oct. 30, 2000], and shall apply with respect to care provided on or after that date.''

EFFECTIVE DATE

Pub. L. 105–261, div. A, title VII, §712(b), Oct. 17, 1998, 112 Stat. 2059, provided that: ''The regulations required under subsection (d) [now (c)] of section 1097a of title 10, United States Code (as added by subsection (a)), shall be prescribed to take effect not later than September 30, 1999. The section shall be applied under TRICARE Prime on and after the date on which the regulations take effect.''

FUTURE AVAILABILITY OF TRICARE PRIME THROUGHOUT THE UNITED STATES

Pub. L. 112–239, div. A, title VII, §732, Jan. 2, 2013, 126 Stat. 1816, as amended by Pub. L. 113–66, div. A, title VII, §701, Dec. 26, 2013, 127 Stat. 789; Pub. L. 113–291, div. A, title VII, §723, Dec. 19, 2014, 128 Stat. 3417; Pub. L. 114–92, div. A, title VII, §701, Nov. 25, 2015, 129 Stat. 860, provided that:

''(a) REPORT REQUIRED.—

''(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act [Jan. 2, 2013], the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report setting forth the policy of the Department of Defense on the future availability of TRICARE Prime under the TRICARE program for eligible beneficiaries in all TRICARE regions throughout the United States.

''(2) ELEMENTS.—The report required by paragraph (1) shall include the following:

''(A) A description, by region, of the difference in availability of TRICARE Prime for eligible beneficiaries (other than eligible beneficiaries on active duty in the Armed Forces) under newly awarded TRICARE managed care contracts, including, in particular, an identification of the regions or areas in which TRICARE Prime will no longer be available for such beneficiaries under such contracts.

''(B) An estimate of the increased costs to be incurred by an affected eligible beneficiary for health care under the TRICARE program.

''(C) An estimate of the savings to be achieved by the Department as a result of the contracts described in subparagraph (A).

''(D) A description of the plans of the Department to continue to assess the impact on access to health care for affected eligible beneficiaries.

''(E) A description of the plan of the Department to provide assistance to affected eligible beneficiaries who are transitioning from TRICARE Prime to TRICARE Standard, including assistance with respect to identifying health care providers.

''(F) Any other matter the Secretary considers appropriate.

''(b) ADDITIONAL REPORT.—

''(1) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of the Carl Levin and Howard P. 'Buck' McKeon National Defense Authorization Act for Fiscal Year 2015 [Dec. 19, 2014], the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the status of reducing the availability of TRICARE Prime in regions described in subsection (d)(1)(B).

''(2) MATTERS INCLUDED.—The report under paragraph (1) shall include the following:

''(A) A description of the implementation of the transition for affected eligible beneficiaries under the TRICARE program who no longer have access to TRICARE Prime under TRICARE managed care contracts as of the date of the report, including—

''(i) the number of eligible beneficiaries who have transitioned from TRICARE Prime to the TRICARE Standard option of the TRICARE program since October 1, 2013;

''(ii) the number of eligible beneficiaries who transferred their TRICARE Prime enrollment to a more distant available Prime service area to remain in TRICARE Prime, by State;

''(iii) the number of eligible beneficiaries who were eligible to transfer to a more distant available Prime service area, but chose to use TRICARE Standard;

''(iv) the number of eligible beneficiaries who elected to return to TRICARE Prime pursuant to subsection (c)(1); and

''(v) the number of affected eligible beneficiaries who, as of the date of the report, changed residences to remain eligible for TRICARE Prime in a new region.

''(B) An estimate of the increased annual costs per affected eligible beneficiary incurred by such beneficiary for health care under the TRICARE program.

''(C) A description of the efforts of the Department to assess the impact on access to health care and beneficiary satisfaction for affected eligible beneficiaries.

''(D) A description of the estimated cost savings realized by reducing the availability of TRICARE Prime in regions described in subsection (d)(1)(B).

''(c) ACCESS TO TRICARE PRIME.—

''(1) ONE-TIME ELECTION.—Subject to paragraph (3), the Secretary shall ensure that each affected eligible beneficiary who is enrolled in TRICARE Prime as of September 30, 2013, may make a one-time election to continue such enrollment in TRICARE Prime, notwithstanding that a contract described in subsection (a)(2)(A) does not allow for such enrollment based on the location in which such beneficiary resides. The beneficiary may continue such enrollment in TRICARE Prime so long as the beneficiary resides in the same ZIP code as the ZIP code in which the beneficiary resided at the time of such election.

''(2) ENROLLMENT IN TRICARE STANDARD.—If an affected eligible beneficiary makes the one-time election under paragraph (1), the beneficiary may thereafter elect to enroll in TRICARE Standard at any time in accordance with a contract described in subsection (a)(2)(A).

''(3) RESIDENCE AT TIME OF ELECTION.—

''(A) Except as provided by subparagraph (B), an affected eligible beneficiary may not make the one-time election under paragraph (1) if, at the time of such election, the beneficiary does not reside—

''(i) in a ZIP code that is in a region described in subsection (d)(1)(B); and

''(ii) within 100 miles of a military medical treatment facility.

''(B) Subparagraph (A)(ii) shall not apply with respect to an affected eligible beneficiary who—

''(i) as of December 25, 2013, resides farther than 100 miles from a military medical treatment facility; and

''(ii) is such an eligible beneficiary by reason of service in the Army, Navy, Air Force, or Marine Corps.

''(4) NETWORK.—In continuing enrollment in TRICARE Prime pursuant to paragraph (1), the Secretary may determine whether to maintain a TRICARE network of providers in an area that is between 40 and 100 miles of a military medical treatment facility.

''(d) DEFINITIONS.—In this section:

''(1) The term 'affected eligible beneficiary' means an eligible beneficiary under the TRICARE Program (other than eligible beneficiaries on active duty in the Armed Forces) who, as of the date of the enactment of this Act [Jan. 2, 2013]—

''(A) is enrolled in TRICARE Prime; and

''(B) resides in a region of the United States in which TRICARE Prime enrollment will no longer be available for such beneficiary under a contract described in subsection (a)(2)(A) that does not allow for such enrollment because of the location in which such beneficiary resides.

''(2) The term 'TRICARE Prime' means the managed care option of the TRICARE program.

''(3) The term 'TRICARE program' has the meaning given that term in section 1072(7) of title 10, United States Code.

''(4) The term 'TRICARE Standard' means the fee-for-service option of the TRICARE Program.''

[Pub. L. 113–291, div. A, title VII, § 723(b), Dec. 19, 2014, 128 Stat. 3418, which directed amendment of subsec. (b)(3)(A) of section 732 of Pub. L. 112–239, set out above, by substituting ''subsection (d)(1)(B)'' for ''subsection (c)(1)(B)'', was executed by making the substitution in subsec. (c)(3)(A) of section 732 of Pub. L. 112–239, to reflect the probable intent of Congress and the prior amendment by section 723(a)(1) of Pub. L. 113–291, which redesignated subsec. (b) as (c).]

§ 1097b. TRICARE program: financial management

(a) REIMBURSEMENT OF PROVIDERS.—(1) Subject to paragraph (2), the Secretary of Defense may reimburse health care providers under the TRICARE program at rates higher than the reimbursement rates otherwise authorized for the providers under that program if the Secretary determines that application of the higher rates is necessary in order to ensure the availability of an adequate number of qualified health care providers under that program.

(2) The amount of reimbursement provided under paragraph (1) with respect to a health care service may not exceed the lesser of the following:

(A) The amount equal to the local fee for service charge for the service in the service area in which the service is provided as determined by the Secretary based on one or more of the following payment rates:

(i) Usual, customary, and reasonable.

(ii) The Health Care Finance Administration's Resource Based Relative Value Scale.

(iii) Negotiated fee schedules.

(iv) Global fees.

(v) Sliding scale individual fee allowances.

(B) The amount equal to 115 percent of the CHAMPUS maximum allowable charge for the service.

(3) In establishing rates and procedures for reimbursement of providers and other administrative requirements, including those contained in provider network agreements, the Secretary shall, to the extent practicable, maintain adequate networks of providers, including institutional, professional, and pharmacy. For the purpose of determining whether network providers under such provider network agreements are subcontractors for purposes of the Federal Acquisition Regulation or any other law, a TRICARE managed care support contract that includes the requirement to establish, manage, or maintain a network of providers may not be considered to be a contract for the performance of health care services or supplies on the basis of such requirement.

(b) THIRD-PARTY COLLECTIONS.—(1) A medical treatment facility of the uniformed services under the TRICARE program has the same right as the United States under section 1095 of this title to collect from a third-party payer the reasonable charges for health care services described in paragraph (2) that are incurred by the facility on behalf of a covered beneficiary under that program.