

Editorial Notes

REFERENCES IN TEXT

Section 1079(j) of this title, referred to in subsec. (a)(1), was redesignated section 1079(i) of this title by Pub. L. 113–291, div. A, title VII, §703(a)(3), Dec. 19, 2014, 128 Stat. 3411.

The Social Security Act, referred to in subsec. (a)(1), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Title XVIII of the Act is classified generally to subchapter XVIII (§1395 et seq.) of chapter 7 of Title 42, The Public Health and Welfare. Section 1862 of the Act is classified to section 1395y of Title 42. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

Section 5000 of the Internal Revenue Code of 1986, referred to in subsec. (f)(2), is classified to section 5000 of Title 26, Internal Revenue Code.

§ 1097d. TRICARE program: notice of change to benefits

(a) **PROVISION OF NOTICE.**—(1) If the Secretary makes a significant change to any benefits provided by the TRICARE program to covered beneficiaries, the Secretary shall provide individuals described in paragraph (2) with notice explaining such changes.

(2) The individuals described by this paragraph are covered beneficiaries participating in the TRICARE program who may be affected by a significant change covered by a notification under paragraph (1).

(3) The Secretary shall provide notice under paragraph (1) through electronic means.

(b) **TIMING OF NOTICE.**—The Secretary shall provide notice under paragraph (1) of subsection (a) by the earlier of the following dates:

(1) The date that the Secretary determines would afford individuals described in paragraph (2) of such subsection adequate time to understand the change covered by the notification.

(2) The date that is 90 days before the date on which the change covered by the notification becomes effective.

(3) The effective date of a significant change that is required by law.

(c) **SIGNIFICANT CHANGE DEFINED.**—In this section, the term “significant change” means a systemwide change—

(1) in the structure of the TRICARE program or the benefits provided under the TRICARE program (not including the addition of new services or benefits); or

(2) in beneficiary cost-share rates of more than 20 percent.

(Added Pub. L. 113–291, div. A, title VII, §711(a), Dec. 19, 2014, 128 Stat. 3413.)

§ 1098. Incentives for participation in cost-effective health care plans

(a) **WAIVER OF LIMITATIONS AND COPAYMENTS.**—Subject to subsection (b), the Secretary of Defense, with respect to any plan contracted for under the authority of section 1079 or 1086 of this title, may waive, in whole or in part—

(1) any limitation set out in the second sentence of section 1079(a) of this title; or

(2) any requirement for payment by the patient under section 1079(b) or 1086(b) of this title.

(b) **DETERMINATION AND REPORT.**—(1) Subject to paragraph (3), the Secretary may waive a limitation or requirement as authorized by subsection (a) if the Secretary determines that during the period of the waiver such a plan will—

(A) be less costly to the Government than a plan subject to such limitations or payment requirements; or

(B) provide better services than those provided by a plan subject to such limitations or payment requirements at no additional cost to the Government.

(2) The Secretary shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report with respect to a waiver under paragraph (1), including a comparison of costs of and benefits available under—

(A) a plan with respect to which the limitations and payment requirements are waived; and

(B) a plan with respect to which there is no such waiver.

(3) A waiver under paragraph (1) may not take effect until the end of the 180-day period beginning on the date on which the Secretary submits the report required by paragraph (2) with respect to such waiver.

(Added Pub. L. 99–661, div. A, title VII, §701(a)(1), Nov. 14, 1986, 100 Stat. 3895; amended Pub. L. 101–510, div. A, title XIV, §1484(h)(1), Nov. 5, 1990, 104 Stat. 1717; Pub. L. 104–106, div. A, title XV, §1502(a)(1), Feb. 10, 1996, 110 Stat. 502; Pub. L. 106–65, div. A, title X, §1067(1), Oct. 5, 1999, 113 Stat. 774.)

Editorial Notes

AMENDMENTS

1999—Subsec. (b)(2). Pub. L. 106–65 substituted “and the Committee on Armed Services” for “and the Committee on National Security”.

1996—Subsec. (b)(2). Pub. L. 104–106 substituted “Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives” for “Committees on Armed Services of the Senate and House of Representatives”.

1990—Subsec. (a). Pub. L. 101–510 substituted “subsection (b)” for “subsections (b) and (c)” in introductory provisions.

§ 1099. Health care enrollment system and payment options

(a) **ESTABLISHMENT OF SYSTEM.**—The Secretary of Defense, after consultation with the other administering Secretaries, shall establish a system of health care enrollment for covered beneficiaries who reside in the United States.

(b) **DESCRIPTION OF SYSTEM.**—Such system shall—

(1) allow covered beneficiaries to elect to enroll in a health care plan, or modify a previous election, from eligible health care plans designated by the Secretary of Defense during—

(A) an annual open enrollment period; and

(B) any period based on a qualifying event experienced by the beneficiary, as determined appropriate by the Secretary; or

(2) if necessary in order to ensure full use of facilities of the uniformed services in a geo-

graphical area, assign covered beneficiaries who reside in such area to such facilities.

(c) **HEALTH CARE PLANS AVAILABLE UNDER SYSTEM.**—A health care plan designated by the Secretary of Defense under the system described in subsection (a) shall provide all health care to which a covered beneficiary is entitled under this chapter. Such a plan may consist of any of the following:

- (1) Use of facilities of the uniformed services.
- (2) A plan under the TRICARE program.
- (3) Any other health care plan contracted for by the Secretary of Defense.
- (4) Any combination of the plans described in paragraphs (1), (2), and (3).

(d) **PAYMENT OPTIONS.**—(1) A member or former member of the uniformed services, or a dependent thereof, eligible for medical care and dental care under section 1074(b) or 1076 of this title shall pay a premium for coverage under this chapter.

(2) To the maximum extent practicable, a premium owed by a member, former member, or dependent under paragraph (1) shall be withheld from the retired, retainer, or equivalent pay of the member, former member, or dependent. In all other cases, a premium shall be paid in a frequency and method determined by the Secretary.

(e) **REGULATIONS.**—The Secretary of Defense, after consultation with the other administering Secretaries, shall prescribe regulations to carry out this section.

(Added Pub. L. 99-661, div. A, title VII, § 701(a)(1), Nov. 14, 1986, 100 Stat. 3896; amended Pub. L. 114-328, div. A, title VII, § 701(d)(1), (j)(1)(E), Dec. 23, 2016, 130 Stat. 2186, 2192; Pub. L. 116-92, div. A, title VII, § 702(a), (b)(2)(B), Dec. 20, 2019, 133 Stat. 1436.)

Editorial Notes

AMENDMENTS

2019—Pub. L. 116-92, § 702(b)(2)(B), inserted “and payment options” after “system” in section catchline.

Subsecs. (d), (e). Pub. L. 116-92, § 702(a), added subsec. (d) and redesignated former subsec. (d) as (e).

2016—Subsec. (b)(1). Pub. L. 114-328, § 701(d)(1), amended par. (1) generally. Prior to amendment, text read as follows: “allow covered beneficiaries to elect a health care plan from eligible health care plans designated by the Secretary of Defense; or”.

Subsec. (c)(2). Pub. L. 114-328, § 701(j)(1)(E), added par. (2) and struck out former par. (2) which read as follows: “The Civilian Health and Medical Program of the Uniformed Services.”

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2019 AMENDMENT

Amendment by Pub. L. 116-92 applicable to health care coverage beginning on or after Jan. 1, 2021, see section 702(c) of Pub. L. 116-92, set out as a note under section 1097a of this title.

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.

REGULATIONS

Pub. L. 99-661, div. A, title VII, § 701(d)(1), (2), Nov. 14, 1986, 100 Stat. 3898, provided that:

“(1) Except as provided in paragraph (2), the Secretary of Defense shall prescribe regulations as required by section 1099(d) [now 1099(e)] of title 10, United States Code (as added by subsection (a)(1)) to implement the system of health care enrollment for covered beneficiaries—

“(A) on October 1, 1987, with respect to—

“(i) covered beneficiaries included in the demonstration project required under section 702 [10 U.S.C. 1073 note]; and

“(ii) facilities of the uniformed services located in the geographical area covered by the demonstration project; and

“(B) not later than September 30, 1990, for all other covered beneficiaries and facilities of the uniformed services.

“(2) The Secretary may not assign covered beneficiaries to facilities of the uniformed services, as authorized by section 1099(b)(2) of such title (as added by subsection (a)(1)), before October 1, 1990.”

INITIAL ANNUAL OPEN ENROLLMENT PERIOD

Pub. L. 114-328, div. A, title VII, § 701(d)(2), (3), Dec. 23, 2016, 130 Stat. 2186, provided that:

“(2) **APPLICATION.**—The Secretary of Defense shall implement the initial annual open enrollment period pursuant to section 1099(b)(1) of title 10, United States Code, as amended by paragraph (1), during 2018.

“(3) **GRACE PERIOD DURING FIRST YEAR.**—

“(A) At any time during the one-year period beginning on the date on which the initial annual open enrollment period begins pursuant to section 1099(b)(1) of title 10, United States Code, as amended by paragraph (1), a covered beneficiary may make an election, or modify such an election, described in such section.

“(B) If during such one-year period an individual who is eligible to enroll in the TRICARE program, but does not elect to enroll in such program, receives health care services for an episode of care that would be covered under the TRICARE program if such individual were enrolled in the TRICARE program, the Secretary—

“(i) shall pay the out-of-network fees only for the first episode of care and inform the individual of the opportunity to enroll in the TRICARE program; and

“(ii) may not pay any costs relating to any subsequent episode of care if such individual is not enrolled in the TRICARE program.”

REPORTS TO CONGRESS

Pub. L. 99-661, div. A, title VII, § 701(c)(1), Nov. 14, 1986, 100 Stat. 3898, required Secretary of Defense, not later than July 1, 1987, to submit to Congress a report detailing any plans to establish or implement a system of health care enrollment (other than as required under section 702(a)(2)(C)) under section 1099(a) of this title and the plan of the Secretary for completing implementation of such system.

§ 1100. Defense Health Program Account

(a) **ESTABLISHMENT OF ACCOUNT.**—(1) There is hereby established in the Department of Defense an account to be known as the “Defense Health Program Account”. All sums appropriated to carry out the functions of the Secretary of Defense with respect to medical and health care programs of the Department of Defense shall be appropriated to the account.

(2) Of the total amount appropriated for a fiscal year for programs and activities carried out under this chapter, the amount equal to three percent of such total amount shall remain avail-