

Issued on: August 6, 2007.

J. Richard Capka,

Federal Highway Administrator.

■ In consideration of the foregoing, the FHWA amends title 23, Code of Federal Regulations, part 637, as set forth below:

PART 637—CONSTRUCTION INSPECTION AND APPROVAL

■ 1. The authority citation for part 637 continues to read as follows:

Authority: Sec. 1307, Pub. L. 105–178, 112 Stat. 107; 23 U.S.C. 109, 114, and 315; 49 CFR 1.48(b).

■ 2. In § 637.209, add paragraph (a)(5) to read as follows:

§ 637.209 Laboratory and sampling and testing personnel qualifications.

* * * * *

(a) * * *

(5) After September 24, 2009, laboratories that perform crash testing for acceptance of roadside hardware by the FHWA shall be accredited by a laboratory accreditation body that is recognized by the National Cooperation for Laboratory Accreditation (NACLA), is a signatory to the Asia Pacific Laboratory Accreditation Cooperation (APLAC) Mutual Recognition Arrangement (MRA), is a signatory to the International Laboratory Accreditation Cooperation (ILAC) Mutual Recognition Arrangement (MRA), or another accreditation body acceptable to FHWA.

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[FR Doc. E7–18725 Filed 9–21–07; 8:45 am]

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DEPARTMENT OF DEFENSE

Office of the Secretary

[DOD–2006–HA–0210]

RIN 0720–AB12

32 CFR Part 199

TRICARE; TRICARE Retiree Dental Program (TRDP) Basic Benefit Descriptions and Administrative Corrections

AGENCY: Office of the Secretary, DoD.

ACTION: Final rule.

SUMMARY: This final rule amends TRICARE Retiree Dental Program (TRDP) Basic benefit descriptions by replacing specific American Dental Association (ADA) dental procedure codes and nomenclature with general benefit categories and descriptions. This revision is necessary to keep the

regulation current, since dental procedure codes are added, revised, and deleted on a regular basis. This final rule does not change or eliminate any benefits that are currently available under the TRDP program. This final rule also revises several incorrect, obsolete, or historical terms pertaining to the TRICARE program, and removes an inaccurate statement regarding appeals and grievances.

DATES: *Effective Date:* October 24, 2007.

ADDRESSES: TRICARE Management Activity, 16401 East Centretech Parkway, Aurora, CO 80011–9066.

FOR FURTHER INFORMATION CONTACT: Debra Hatzel, Program Requirements Division, TRICARE Management Activity, telephone (303) 676–3572.

SUPPLEMENTARY INFORMATION:

1. Introduction and Background

A. Provisions of the Rule Regarding Dental Procedure Codes and Nomenclature. This final rule amends TRICARE Retiree Dental Program (TRDP) Basic benefit descriptions by removing specific American Dental Association (ADA) dental procedure codes and nomenclature, and replacing them with general benefit categories and descriptions from the most recent Current Dental Terminology (CDT) Manual (CDT–2005). This action is required because dental procedure codes and nomenclature are added, revised, and deleted by the ADA every two years; when this occurs, the regulation must also be revised to reflect the new codes and nomenclature. Maintaining specific procedure codes and nomenclature in the regulation is unnecessary, since the TRDP contract and TRDP marketing materials (available at <http://www.tricare.osd.mil/dental/dm2.cfm>) already contain detailed benefit descriptions. Also, the TRDP contractor and enrollees are notified when the Government directs any changes to TRDP benefits, limits, or exclusions. The TRDP contract and TRDP marketing materials will continue to be the primary vehicles for communicating specific benefit information to the TRDP contractor and beneficiaries. Removal of specific procedure codes and nomenclature from this section does not change or eliminate any benefits that are currently available under the TRDP. The general categories of benefits that are listed in this final rule will be adjusted periodically to conform to the current CDT Manual.

Although there are many similarities between the TRDP and the TRICARE Dental Program (TDP), the benefits are not identical. Also, there are different

dental benefits available under the TRDP Basic program and the TRDP Enhanced program. The general benefit categories in this TRDP final rule differ from the TDP benefit categories listed in 32 CFR Part 199.13. This variance exists because some of the benefits offered under the TDP are not benefits under the TRDP Basic program (e.g., prosthodontic and orthodontic services), and because the TDP benefit categories were derived from an earlier version of the CDT Manual.

B. Provisions of the Rule Regarding the Administrative Correction of Incorrect, Obsolete, or Historical Terms and Inaccurate Information. The proposed rule addressed the revision of several incorrect, obsolete or historical terms that appear in the regulation. Specifically, “Director, OCHAMPUS” was proposed to be amended to “Director, TRICARE Management Activity”; “Assistant Secretary of Defense (Human Affairs)” was proposed to be amended to “Assistant Secretary of Defense (Health Affairs)”; “Active Duty Dependents Dental Program” was proposed to be amended to “TRICARE Dental Program”; “CHAMPUS” was proposed to be amended to “TRICARE/CHAMPUS”; and “OCHAMPUS” was proposed to be amended to “TRICARE Management Activity.”

Subsequent to the publication of the proposed rule, TRICARE Management Activity identified a long-standing error in the regulation regarding appeals and grievances. Specifically, 32 CFR 199.22(k)(1) currently states, “Appeal and hearing procedures. All levels of appeals and grievances established by the Contractor for internal review shall be exhausted prior to forwarding to OCHAMPUS for a final review. Procedures comparable to those established under Sec. 199.13(h) of this part shall apply.” The first sentence in this paragraph is inaccurate. TRDP grievances are written complaints regarding non-appealable issues involving a perceived failure of a provider or contractor staff to furnish the expected level or quality of care (e.g., demeanor or behavior of providers or their staff). The TRDP contractor is responsible for the investigation and resolution of grievances; since they are not forwarded to TMA for “final review”, the current CFR language is incorrect. Appeals involve decisions related to TRICARE benefits (e.g., denial of preauthorization for requested services, or denial of TRICARE payment for services received). Appeals are initially sent to the TRDP contractor for reconsideration. If the original denial is upheld (and the amount in dispute is \$50 or more), the beneficiary may

request a formal review by the TRICARE Management Activity. If the beneficiary is dissatisfied with the formal review decision (and the amount in dispute is \$300 or more, the beneficiary may request that the TRICARE Management Activity schedule an independent hearing. Since there are two possible levels of action for appeals that are forwarded to the TRICARE Management Activity (not a single "final review"), the current CFR language is incorrect. Therefore, the inaccurate sentence has been deleted in this final rule as an administrative correction. The current TRDP appeal and hearing procedures are comparable to those established under Sec. 199.13(h) as required by the regulation, and are unchanged by this rule.

II. Public Comments

The proposed rule was published in the **Federal Register** on November 27, 2006. We received no public comments.

III. Regulatory Procedures

Executive Order 12866 directs agencies to assess all costs and benefits available, regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The Order classifies a rule as a significant regulatory action requiring review by the Office of Management and Budget if it meets any one of a number of specified conditions, including having an annual effect on the national economy of \$100 million or more, creating a serious inconsistency or interfering with an action of another agency, materially altering the budgetary impact of entitlements or the right of entitlement recipients, or raising novel legal or policy issues. DoD has examined the economic, legal, and policy implications of this final rule and has concluded that is not a significant regulatory action. The changes set forth in the final rule are minor administrative revisions to the existing regulation which do not change the basic TRDP benefit structure. This is neither a significant regulatory action under Executive Order 12866, nor would it have a significant impact on small entities.

Regulatory Flexibility Act (RFA) requires that each Federal Agency prepare and make available for public comment, a regulatory flexibility analysis when the agency issues a Regulation which would have a significant impact on a substantial number of small entities.

This final rule is not a major rule under the Congressional Review Act because its economic impact will be less than \$100 million.

Executive Order 13132 requires that each Federal Agency shall consult with State and local officials and obtain their input if a rule has federalism implications which have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have examined the impact of the final rule under Executive Order 13132 and it does not have policies that have federalism implications that would have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government; therefore, consultation with State and local officials is not required. In addition, this final rule does not impose new information collection requirements for purposes of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3511).

List of Subjects in 32 CFR Part 199

Claims, Dental health, Health care, Health insurance, Individuals with disabilities, Military personnel.

■ Accordingly, 32 CFR part 199 is amended as follows:

PART 199—[AMENDED]

■ 1. The authority citation for part 199 continues to read as follows:

Authority: 5 U.S.C. 301; 10 U.S.C. chapter 55.

■ 2. Section 199.22 is amended by revising the last sentence of paragraph (b)(1), paragraph (b)(4), paragraph (c), paragraph (d)(1)(v), the first sentence of paragraph (d)(4)(ii), paragraph (f) introductory text, paragraph (f)(1) introductory text, paragraphs (f)(1)(i) through (f)(1)(vii), the first sentence of paragraph (f)(3), and paragraph (g); and by removing paragraph (f)(1)(viii), paragraph (f)(1)(ix), and the first sentence of paragraph (k) to read as follows:

§199.22 TRICARE Retiree Dental Program (TRDP).

* * * * *

(b) * * *

(1) * * * Additional services comparable to those contained in paragraph (e)(2) of §199.13 may be covered pursuant to benefit policy decisions made by the Director,

TRICARE Management Activity, or designee.

* * * * *

(4) Except as otherwise provided in this section or by the Assistant Secretary of Defense (Health Affairs) or designee, the TRDP is administered in a manner similar to the TRICARE Dental Program under §199.13 of this part.

* * * * *

(c) Except as may be specifically provided in this section, to the extent terms defined in §199.2 and §199.13(b) are relevant to the administration of the TRICARE Retiree Dental Program, the definitions contained in §199.2 and §199.13(b) shall apply to the TRDP as they do to TRICARE/CHAMPUS and the TRICARE Dental Program.

(d) * * *

(1) * * *

(v) The unremarried surviving spouse and eligible child dependents of a deceased member who died while in status described in paragraph (d)(1)(i) or paragraph (d)(1)(ii) of this section; the unremarried surviving spouse and eligible child dependents who receive a surviving spouse annuity; or the unremarried surviving spouse and eligible child dependents of a deceased member who died while on active duty for a period of more than 30 days and whose eligible dependents are not eligible or no longer for the TRICARE Dental Program.

* * * * *

(4) * * *

(ii) *Enrollment period for enhanced benefits.* The initial enrollment period for enhanced benefit coverage described in paragraph (f)(2) of this section shall be established by the Director, TRICARE Management Activity, or designee, when such coverage is offered, to be a period of not less than 12 months and not more than 24 months. * * *

* * * * *

(f) *Plan benefits.* The Director, TRICARE Management Activity, or designee, may modify the services covered by the TRDP to the extent determined appropriate based on developments in common dental care practices and standard dental programs. In addition, the Director, TRICARE Management Activity, or designee, may establish such exclusions and limitations as are consistent with those established by dental insurance and prepayment plans to control utilization and quality of care for the services and items covered by the TRDP.

(1) The minimum TRDP benefit is basic dental care to include diagnostic services, preventive services, restorative services, endodontic services, periodontic services, oral surgery

services, and other general services. The following is the minimum TRDP covered dental benefit:

- (i) *Diagnostic services.*
 - (A) Clinical oral examinations.
 - (B) Radiographs and diagnostic imaging.
 - (C) Tests and laboratory examinations.
- (ii) *Preventive services.*
 - (A) Dental prophylaxis.
 - (B) Topical fluoride treatment (office procedure).
 - (C) Sealants.
 - (D) Other preventive services.
 - (E) Space maintenance.
- (iii) *Restorative services.*
 - (A) Amalgam restorations.
 - (B) Resin-based composite restorations.
 - (C) Other restorative services.
 - (iv) *Endodontic services.*
 - (A) Pulp capping.
 - (B) Pulpotomy and pulpectomy.
 - (C) Root canal therapy.
 - (D) Apexification and recalcification procedures.
 - (E) Apicoectomy and periradicular services.
 - (F) Other endodontic procedures.
 - (v) *Periodontic Services.*
 - (A) Surgical services.
 - (B) Periodontal services.
 - (vi) *Oral surgery.*
 - (A) Extractions.
 - (B) Surgical extractions.
 - (C) Alveoloplasty.
 - (D) Biopsy.
 - (E) Other surgical procedures.
 - (vii) *Other general services.*
 - (A) Palliative (emergency) treatment of dental pain.
 - (B) Therapeutic drug injection.
 - (C) Other drugs and/or medicaments.
 - (D) Treatment of postsurgical complications.

* * * * *

(3) *Alternative course of treatment policy.* The Director, TRICARE Management Activity, or designee, may establish, in accordance with generally accepted dental benefit practices, an alternative course of treatment policy which provides reimbursement in instances where the dentist and TRDP enrollee select a more expensive service, procedure, or course of treatment than is customarily provided. * * *

* * * * *

(g) *Maximum coverage amounts.* Each enrollee is subject to an annual maximum coverage amount for non-orthodontic dental benefits and, if an orthodontic benefit is offered, a lifetime maximum coverage amount for orthodontics as established by the Director, TRICARE Management Activity, or designee.

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Dated: September 14, 2007.
L.M. Bynum,
Alternate OSD Federal Register Liaison Officer, Department of Defense.
[FR Doc. 07-4658 Filed 9-21-07; 8:45 am]
BILLING CODE 5001-06-M

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG-2007-29153]

RIN 1625-AA87

Security Zone; Hawaii Superferry Arrival/Departure, Nawiliwili Harbor, Kauai, HI

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule; additional correction.

SUMMARY: This document corrects a typographical error in a U.S. Code section number and corrects a reference to an access road on the jetty south of Nawiliwili Park in a temporary final rule entitled "Security Zone; Hawaii Super Ferry Arrival/Departure, Nawiliwili Harbor, Kauai, Hawaii" that was published September 5, 2007, in the **Federal Register**.

DATES: These corrections are effective September 24, 2007.

FOR FURTHER INFORMATION CONTACT: Lieutenant (Junior Grade) Jasmin Parker, U.S. Coast Guard Sector Honolulu at 808-842-2673.

SUPPLEMENTARY INFORMATION: On September 5, 2007, the Coast Guard published a temporary final rule entitled "Security Zone; Hawaii Super Ferry Arrival/Departure, Nawiliwili Harbor, Kauai, Hawaii" in the **Federal Register** (72 FR 50877). In that document references were made to Waapa Road being included in the security zone covering land on the jetty south of Nawiliwili Park. The road in the zone is not named "Waapa Road"; instead, that jetty access road is commonly known as "Jetty Road." Also, when citing to the authority for making the rule effective less than 30 days after publication, instead of citing to 5 U.S.C. 553(d)(3), because of a typographic error, that section was cited as "533." This document corrects those errors. A previous correction document for this rule was published September 13, 2007 (72 FR 52282).

Correction Instructions

In rule FR Doc. 07-4357 published on September 5, 2007 (72 FR 50877), make the following corrections:

1. On page 50877, in the first column, in line 17, remove the words "Waapa Road" and add, in their place, the words "the jetty access road (commonly known as Jetty Road)".
2. On page 50877, in the second column, in line 21, remove "533" and add, in its place, "553".

§ 165.T14-160 [Corrected]

■ 3. On page 50879, in the first line of the second column, in § 165.T14-160(a), remove the words "Waapa Road" and add, in their place, the words "the jetty access road (commonly known as Jetty Road)".

Dated: September 19, 2007.
Stefan G. Venckus,
Chief, Office of Regulations and Administrative Law, United States Coast Guard.
[FR Doc. E7-18783 Filed 9-21-07; 8:45 am]
BILLING CODE 4910-15-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[WC Docket No. 05-195, CC Docket No. 96-45, CC Docket No. 02-6, WC Docket No. 02-60, WC Docket No. 03-109, CC Docket No. 97-21; FCC 07-150]

Measures To Safeguard the Universal Service Fund From Waste, Fraud, and Abuse as Well as Measures To Improve the Management, Administration, and Oversight of the Universal Service Fund

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In the Report and Order, the Commission adopted measures to safeguard the Universal Service Fund ("USF") from waste, fraud, and abuse. The intended effect of the measures adopted is to improve the management, administration, and oversight of the USF.

DATES: Effective October 24, 2007 except for the amendments to §§ 54.202, 54.417, 54.619, and 54.706, which contain information collection requirements that are not effective until approved by the Office of Management and Budget. The FCC will publish a document in the **Federal Register** announcing the effective date for those sections. Additionally, the Commission will send, as a minor rule, a copy of this