

6)'' is corrected to read "1,3-propanediamine, N,N'-1,2-ethanediyldis-, polymer with 2,4,6-trichloro-1,3,5-triazine, reaction products with N-butyl-2,2,6,6-tetramethyl-4-piperidinamine (CAS Reg. No. 136504-96-6)".

Dated: August 10, 1999.

**L. Robert Lake,**

*Director, Office of Policy, Planning and Strategic Initiatives, Center for Food Safety and Applied Nutrition.*

[FR Doc. 99-21849 Filed 8-23-99; 8:45 am]

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## DEPARTMENT OF DEFENSE

### Office of the Secretary

#### 32 CFR Part 199

RIN-0720-AA51

#### Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Revisions to the Eligibility Requirements

**AGENCY:** Office of the Secretary, DoD.

**ACTION:** Final Rule.

**SUMMARY:** This final rule revises the comprehensive CHAMPUS regulation pertaining to basic CHAMPUS benefits in accordance with several statutory changes. This final rule: sets forth the requirements for reinstatement of CHAMPUS eligibility for beneficiaries under age 65 who would otherwise have lost eligibility for CHAMPUS due to disability or end-stage renal disease (ESRD); establishes new classes of CHAMPUS eligibles; establishes the Transitional Assistance Management Program which provides transitional health care for members (and their dependents) who served on active duty in support of a contingency operation and for members (and their dependents) who are involuntarily separated from active duty; allows former spouses who buy a conversion health policy to keep CHAMPUS eligibility for twenty-four (24) months for preexisting conditions that are not covered by the conversion policy; and makes minor technical revisions to the double coverage provisions. In order to expedite compliance with the statutory requirements, all of these provisions have been implemented under interim instructions. This final rule also adds a new category of eligible beneficiary under the Continued Health Care Benefit Program.

**DATES:** This final rule is effective September 23, 1999.

**ADDRESSES:** TRICARE Management Activity (TMA), Medical Benefits and Reimbursement Systems, Aurora, CO 80011-9043.

**FOR FURTHER INFORMATION CONTACT:** Stephen E. Isaacson, Medical Benefits and Reimbursement Systems, TMA, telephone (303) 676-3572.

#### SUPPLEMENTARY INFORMATION:

The following specific paragraphs of § 199.3 have eligibility dates as follows:

Paragraph	Eligibility Date
(b)(2)(ii)(H)(2) .....	October 23, 1992.
(b)(2)(ii)(H)(3) .....	November 14, 1986.
(b)(2)(ii)(H)(4) (pertaining to placement by a court).	July 1, 1994.
(b)(2)(ii)(H)(4) (pertaining to placement by a recognized placement agency).	October 5, 1994.
(b)(2)(iii)(A)(1) .....	November 14, 1986.
(b)(2)(iii)(A)(2) .....	October 23, 1992.
(e)(1)(i) .....	April 6, 1991.
§ 199.3(e)(1)(ii) .....	October 1, 1990.
(e)(1)(iii) .....	October 1, 1990.
(f)(3)(viii) .....	October 1, 1991.
(f)(3)(ix) .....	October 1, 1991.

#### I. Summary of Final Rule Provisions

This final rule adds or revises a number of eligibility provisions. Following is a brief summary of the classes of beneficiaries affected by this final rule. Generally, each class is eligible for CHAMPUS as a result of the change, and we have included the other salient points regarding each, but the reader should refer to the proposed rule that was published on December 23, 1997, for a detailed discussion regarding the specific conditions and requirements for each class.

##### CHAMPUS/Medicare dual eligibles

- Must be under age 65, eligible for Medicare due to disability or end-stage renal disease, and enrolled in Medicare Part B
- Applies to all categories of CHAMPUS beneficiaries except dependents of active-duty members
- Effective October 1, 1991

Dependents of a person who dies of an injury, illness, or disease incurred on the way to or from training with a duration of 30 days or less

- Retiree cost-sharing
- Effective November 14, 1986

##### Victims of abuse

- By a member who was discharged or dismissed as a result of a court-martial conviction for the abuse
- Eligibility limited to one year from member's separation

- Coverage limited to treatment of conditions resulting from abuse
- Effective November 14, 1986 through October 16, 1998
- Effective October 17, 1998, covered services need not be related to the abuse and eligibility coincides with the period that the abused dependent is in receipt of transitional compensation under section 1059 of title 10 U.S.C.
- By a member or former member who loses eligibility to retired pay as a result of the abuse
- Effective October 23, 1992
- Students who become incapable of self-support
- Must be full-time student
- The incapacitating condition must occur between the ages of 21 and 23
- Effective October 23, 1992
- Dependents of an active duty member who dies while on active duty
- These individuals have always been eligible for CHAMPUS with retiree cost-sharing
- The most recent change provides that all care is to be cost-shared as active duty
- Special cost-sharing is limited to one year
- Effective October 1, 1993
- For dependents of active-duty members who die while on active duty between January 1, 1993, and October 1, 1993, only care for pre-existing conditions is to be cost-shared as active duty.
- Dependents placed in the custody of a member or former member by a court or a recognized placement agency.
- Effective July 1, 1994, if placed by a court
- Effective October 5, 1994, if placed by a recognized placement agency
- This category of beneficiary is also added to the Continued Health Care Benefit Program effective October 5, 1994.
- Transitional Assistance Management Program (TAMP)
- Claims for all individuals eligible under TAMP are cost-shared as active-duty dependents
- Members released from active duty in connection with contingency operations
- Eligible up to thirty (30) days
- Effective April 6, 1991
- Members involuntarily separated with less than six (6) years of service
- Eligible up to sixty (60) days
- Effective October 1, 1990
- Members involuntarily separated with six (6) or more years of service
- Eligible up to 120 days
- Effective October 1, 1990

The minor technical revisions to the double coverage provisions in section 199.8 and the addition of a new category of eligible beneficiary under the Continued Health Care Benefit Program contained in section 199.20 are unchanged from the proposed rule. The reader should refer to the proposed rule for a discussion of these provisions.

## II. Public Comments

We provided a 60-day comment period on the proposed rule. We received no public comments, but we received a comment from another federal agency with which we are required to coordinate rules. Below we provide a summary of the comment and our response.

**Comment**—The commenter indicated that the language in paragraphs (f)(3)(viii) and (g)(1) does not accurately reflect the Medicare eligibility provisions for persons with end-stage renal disease (ESRD).

**Response**—A description of the Medicare eligibility requirements for persons with ESRD is not necessary to this rule, since those requirements are set forth in 42 CFR 406.13. We have deleted the language from the final rule.

## III. Changes In the Final Rule

We have made four changes in the final rule to correct errors we discovered in the proposed rule.

The first involves a mathematical error in the supplementary information of the proposed rule. In Section II.D. we provided examples of coordination of benefits calculations for certain Medicare beneficiaries whose CHAMPUS eligibility has been reinstated. In Example 1, Step 4, the result is \$3,938.45 and not \$4,043.95 as was published in the proposed rule. This does not affect the final result of these calculations, but it is important to ensure the steps are accurate.

The second involves paragraph (b)(2)(ii)(H)(2). In the proposed rule this paragraph included the words "has not attained the age of 21". The basic requirement that a child be under 21 is contained elsewhere and this paragraph allows an exception to that requirement. Therefore, we have deleted the words "has not attained the age of 21".

The third involves paragraph (c)(5)(v). In the past, an incapacitated individual age 21 or older (age 23 or older if a student) could be adopted and gain CHAMPUS eligibility. The statute has been revised to restrict adoptions only to individuals that meet the requirements of a dependent at the time of adoption. As a result, we have deleted paragraph (c)(5)(v).

The fourth involves paragraph (c)(7). We have added additional material to this paragraph to distinguish the different beginning eligibility dates for children who are victims of abuse by a person who is discharged from a Uniformed Service as a result of committing the abuse as opposed to a person who has eligibility to receive retired pay on the basis of years of service terminated as a result of committing the abuse.

We have also made changes to paragraphs (b)(2)(iii)(A)(1), (c)(3)(i), and (c)(7) to include the provisions of Section 732 of the National Defense Authorization Act for FY 1999 (Pub. L. 105-261). This statutory change removed the limitation on the extent of services available to certain victims of abuse (i.e., the services must be related to the abuse) so that they are entitled to all benefits available under the Program. It also replaced the one year limitation on services available to them with the period that the abused dependent is in receipt of transitional compensation under section 1059 of title 10 U.S.C.

## IV. Regulatory Procedures.

The 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 significant regulatory action under Executive Order 12866. The changes set forth in this final rule are minor revisions to the existing regulation. Since this final rule does not impose information collection requirements, it does not need to be reviewed by the Executive Office of Management and Budget under authority of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

## List of Subjects in 32 CFR Part 199

Claims, Handicapped, Health Insurance, and 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 199.2(b) is amended by adding new definitions *abused dependent*, *deceased reservist*, *former member*, *member*, *reservist*, and *spouse*, in alphabetical order, and by revising the definitions for *child*, *deceased service member*, *Defense Enrollment*

*Eligibility Reporting System (DEERS)*, *dependent*, *sponsor*, *widow* or *widower* to read as follows:

## § 199.2 Definitions.

\* \* \* \* \*

(b) \* \* \*

*Abused dependent.* An eligible spouse or child, who meets the criteria in § 199.3 of this part, of a former member who received a dishonorable or bad-conduct discharge or was dismissed from a Uniformed Service as a result of a court-martial conviction for an offense involving physical or emotional abuse or was administratively discharged as a result of such an offense, or of a member or former member who has had their entitlement to receive retired pay terminated because of misconduct involving physical or emotional abuse.

\* \* \* \* \*

*Child.* An unmarried child of a member or former member, who meets the criteria (including age requirements) in § 199.3 of this part.

\* \* \* \* \*

*Deceased member.* A person who, at the time of his or her death, was an active duty member of a Uniformed Service under a call or order that did not specify a period of 30 days or less.

\* \* \* \* \*

*Deceased reservist.* A reservist in a Uniformed Service who incurs or aggravates an injury, illness, or disease, during, or on the way to or from, active duty training for a period of 30 days or less or inactive duty training and dies as a result of that specific injury, illness or disease.

\* \* \* \* \*

*Deceased retiree.* A person who, at the time of his or her death, was entitled to retired or retainer pay or equivalent pay based on duty in a Uniformed Service. For purposes of this part, it also includes a person who died before attaining age 60 and at the time of his or her death would have been eligible for retired pay as a reservist but for the fact that he or she was not 60 years of age, and had elected to participate in the Survivor Benefit Plan established under 10 U.S.C. chapter 73.

\* \* \* \* \*

*Defense Enrollment Eligibility Reporting System (DEERS).* An automated system maintained by the Department of Defense for the purpose of:

- (1) Enrolling members, former members and their dependents, and
- (2) Verifying members', former members' and their dependents' eligibility for health care benefits in the direct care facilities and for CHAMPUS.

\* \* \* \* \*

*Dependent.* Individuals whose relationship to the sponsor (including NATO members who are stationed in or passing through the United States on official business when authorized) leads to entitlement to benefits under this part. (See § 199.3 of this part for specific categories of dependents).

*Former member.* A retiree, deceased member, deceased retiree, or deceased reservist in certain circumstances (see section 199.3 for additional information related to certain deceased reservists' dependents' eligibility). Under conditions specified under § 199.3 of this part, former member may also include a member of the Uniformed Services who has been discharged from active duty (or, in some cases, full-time National Guard duty), whether voluntarily or involuntarily, under other than adverse conditions and qualifies for CHAMPUS benefits under the Transitional Assistance Management Program or the Continued Health Care Benefit Program.

*Member.* A person on active duty in a Uniformed Service under a call or order that does not specify a period of 30 days or less. (*For CHAMPUS cost-sharing purposes only*, a former member who received a dishonorable or bad-conduct discharge or was dismissed from a Uniformed Service as a result of a court-martial conviction for an offense involving physical or emotional abuse or was administratively discharged as a result of such an offense is considered a member).

*Reservist.* A person who is under an active duty call or order to one of the Uniformed Services for a period of 30 days or less or is on inactive training.

*Sponsor.* A member or former member of a Uniformed Service upon whose status his or her dependents' eligibility for CHAMPUS is based. A sponsor also includes a person who, while a member of the Uniformed Services and after becoming eligible to be retired on the basis of years of service, has his or her eligibility to receive retired pay terminated as a result of misconduct involving abuse of a spouse or dependent child. It also includes NATO members who are stationed in or passing through the United States on official business when authorized. It also includes individuals eligible for CHAMPUS under the Transitional Assistance Management Program.

*Spouse.* A lawful husband or wife, who meets the criteria in § 199.3 of this

part, regardless of whether or not dependent upon the member or former member for his or her own support.

*Widow or Widower.* A person who was a spouse at the time of death of a member or former member and who has not remarried.

3. Section 199.3 is revised to read as follows:

#### § 199.3 Eligibility.

(a) *General.*—This section sets forth those persons who, by the provisions of 10 U.S.C. chapter 55, and the NATO Status of Forces Agreement, are eligible for CHAMPUS benefits. A determination that a person is eligible does not automatically entitle such a person to CHAMPUS payments. Before any CHAMPUS benefits may be extended, additional requirements, as set forth in other sections of this part, must be met. Additionally, the use of CHAMPUS may be denied if a Uniformed Service medical treatment facility capable of providing the needed care is available. CHAMPUS relies primarily on the Defense Enrollment Eligibility Reporting System (DEERS) for eligibility verification.

(b) *CHAMPUS eligibles*—(1) *Retiree.* A member or former member of a Uniformed Service who is entitled to retired, retainer, or equivalent pay based on duty in a Uniformed Service.

(2) *Dependent.* Individuals whose relationship to the sponsor leads to entitlement to benefits. CHAMPUS eligible dependents include the following:

(i) *Spouse.* A lawful husband or wife of a member or former member. The spouse of a deceased member or retiree must not be remarried. A former spouse also may qualify for benefits as a dependent spouse. A former spouse is a spouse who was married to a military member, or former member, but whose marriage has been terminated by a final decree of divorce, dissolution or annulment. To be eligible for CHAMPUS benefits, a former spouse must meet the criteria described in paragraphs (b)(2)(i)(A) through (b)(2)(i)(E) of this section *and* must qualify under the group defined in paragraph (b)(2)(i)(F)(1) or (b)(2)(i)(F)(2) of this section.

(A) Must be unremarried; and  
(B) Must not be covered by an employer-sponsored health plan; and

(C) Must have been married to a member or former member who performed at least 20 years of service which can be credited in determining the member's or former member's eligibility for retired or retainer pay; and

(D) Must not be eligible for Part A of Title XVIII of the Social Security Act (Medicare) except as provided in paragraphs (f)(3)(viii) and (f)(3)(ix) of this section; and

(E) Must not be the dependent of a NATO member; *and*

(F) Must meet the requirements of paragraph (b)(2)(i)(F)(1) or (b)(2)(i)(F)(2) of this section:

(1) The former spouse must have been married to the same member or former member for at least 20 years, at least 20 of which were creditable in determining the member's or former member's eligibility for retired or retainer pay. Eligibility continues indefinitely unless affected by any of the conditions of paragraphs (b)(2)(i)(A) through (b)(2)(i)(E) of this section.

(i) If the date of the final decree of divorce, dissolution, or annulment was before February 1, 1983, the former spouse is eligible for CHAMPUS coverage of health care received on or after January 1, 1985.

(ii) If the date of the final decree of the divorce, dissolution, or annulment was on or after February 1, 1983, the former spouse is eligible for CHAMPUS coverage of health care which is received on or after the date of the divorce, dissolution, or annulment.

(2) The former spouse must have been married to the same member or former member for at least 20 years, and at least 15, but less than 20 of those married years were creditable in determining the member's or former member's eligibility for retired or retainer pay.

(i) If the date of the final decree of divorce, dissolution, or annulment is before April 1, 1985, the former spouse is eligible only for care received on or after January 1, 1985, or the date of the divorce, dissolution, or annulment, whichever is later. Eligibility continues indefinitely unless affected by any of the conditions of paragraphs (b)(2)(i)(A) through (b)(2)(i)(E) of this section.

(ii) If the date of the final decree of divorce, dissolution or annulment is on or after April 1, 1985, but before September 29, 1988, the former spouse is eligible only for care received from the date of the decree of divorce, dissolution, or annulment until December 31, 1988, or for two years from the date of the divorce, dissolution, or annulment, whichever is later.

(iii) If the date of the final decree of divorce, dissolution, or annulment is on or after September 29, 1988, the former spouse is eligible only for care received within the 365 days (366 days in the case of a leap year) immediately following the date of the divorce, dissolution, or annulment.

(ii) *Child*. A dependent child is an unmarried child of a member or former member who has not reached his or her twenty-first (21st) birthday, except an incapacitated adopted child meeting the requirements of paragraph (b)(2)(ii)(H)(2) of this section, and who bears one of the following relationships to a member or former member of one of the Uniformed Services:

(A) A legitimate child; or

(B) An adopted child whose adoption has been legally completed on or before the child's twenty-first (21st) birthday; or

(C) A legitimate stepchild; or

(D) An illegitimate child of a *member or former member* whose paternity/maternity *has been* determined judicially, and the member or former member directed to support the child; or

(E) An illegitimate child of a *member or former member* whose paternity/maternity *has not been* determined judicially, who resides with or in the home provided by the member or former member, and is or continues to be dependent upon the member or former member for over one-half of his or her support, or who was so dependent on the former member at the time of the former member's death; or

(F) An illegitimate child of a *spouse of a member* who resides with or in a home provided by the member and is, and continues to be dependent upon the member for over one-half of his or her support; or

(G) An illegitimate child of a *spouse of a former member* who resides with or in a home provided by a former member or the former member's spouse at the time of death of the former member, and is, or continues to be, or was, dependent upon the former member for more than one-half of his or her support at the time of death; or

(H) An individual who falls into one of the following classes:

(I) A *student*. A child determined to be a member of one of the classes in paragraphs (b)(2)(ii)(A) through (b)(2)(ii)(G) of this section, who is not married, has passed his or her 21st birthday but has not passed his or her 23rd birthday, is dependent upon the member or former member for over 50 percent of his or her support or was dependent upon the member or former member for over 50 percent of his or her support on the date of the member's or former member's death, and is pursuing a full-time course of education in an institution of higher learning approved by the Secretary of Defense or the Department of Education (as appropriate) or by a state agency under 38 U.S.C. chapters 34 and 35.

**Note:** Courses of education offered by institutions listed in the "Education Directory," "Higher Education" or "Accredited Higher Institutions" issued periodically by the Department of Education meet the criteria approved by the Administering Secretary or the Secretary of Education. For determination of approval of courses offered by a foreign institution, by an institution not listed in either of the above directories, or by an institution not approved by a state agency pursuant to 38 U.S.C. chapters 34 and 35, a statement may be obtained from the Department of Education, Washington, D.C. 20202.

(2) *An incapacitated child*. A child determined to be a member of one of the classes in paragraphs (b)(2)(ii)(A) through (b)(2)(ii)(G) of this section, who is not married and is incapable of self-support because of a mental or physical disability that:

(i) Existed before the child's twenty-first (21st) birthday; or

(ii) Occurred between the ages of 21 and 23 while the child was enrolled in a full-time course of study in an institution of higher learning approved by the Administering Secretary or the Department of Education (see NOTE to paragraph (b)(2)(ii)(H)(2)(iii) of this section), and is or was at the time of the member's or former member's death dependent on the member or former member for over one-half of his or her support; and

(iii) The incapacity is continuous. (If the incapacity significantly improves or ceases at any time, CHAMPUS eligibility cannot be reinstated on the basis of the incapacity, unless the incapacity recurs and the beneficiary is under age 21, or is under age 23 and is enrolled as a full-time student under paragraph (b)(2)(ii)(H)(2)(ii) of this section. If the child was not incapacitated after that date, no CHAMPUS eligibility exists on the basis of the incapacity. However, incapacitated children who marry and who subsequently become unmarried through divorce, annulment, or death of spouse, may be reinstated as long as they still meet all other requirements).

**Note:** An institution of higher learning is a college, university, or similar institution, including a technical or business school, offering post-secondary level academic instruction that leads to an associate or higher degree, if the school is empowered by the appropriate State education authority under State law to grant an associate, or higher, degree. When there is no State law to authorize the granting of a degree, the school may be recognized as an institution of higher learning if it is accredited for degree programs by a recognized accrediting agency. The term also shall include a hospital offering educational programs at the post-secondary level regardless of whether the hospital grants a post-secondary degree. The

term also shall include an educational institution that is not located in a State, that offers a course leading to a standard college degree, or the equivalent, and that is recognized as such by the Secretary of Education (or comparable official) of the country, or other jurisdiction, in which the institution is located (38 U.S.C. chapter 34, section 1661, and chapter 35, section 1701).

Courses of education offered by institutions listed in the "Education Directory," "Higher Education" or "Accredited Higher Institutions" issued periodically by the Department of Education meet the criteria approved by the Administering Secretary or the Secretary of Education. For determination of approval of courses offered by a foreign institution, by an institution not listed in either of the above directories, or by an institution not approved by a state agency pursuant to chapters 34 and 35 of 38 U.S.C., a statement may be obtained from the Department of Education, Washington, D.C. 20202.

(3) *A child of a deceased reservist*. A child, who is determined to be a member of one of the classes in paragraphs (b)(2)(ii)(A) through (b)(2)(ii)(G) of this section, of a reservist in a Uniformed Service who incurs or aggravates an injury, illness, or disease, during, or on the way to or from, active duty training for a period of 30 days or less or inactive duty training, and the reservist dies as a result of that specific injury, illness or disease.

(4) *A child placed in legal custody of a member or former member*. A child who is placed in legal custody of a member or former member by a court or who is placed in the home of a member or former member by a recognized placement agency in anticipation of the legal adoption of the child.

(iii) *Abused dependents*.—(A) *Categories of abused dependents*. An abused dependent may be either a spouse or a child. Eligibility for either class of abused dependent results from being either:

(I) The spouse (including a former spouse) or child of a member who has received a dishonorable or bad-conduct discharge, or dismissal from a Uniformed Service as a result of a court-martial conviction for an offense involving physical or emotional abuse of the spouse or child, or was administratively discharged as a result of such an offense. Until October 17, 1998, Medical benefits are limited to care related to the physical or emotional abuse and for a period of 12 months following the member's separation from the Uniformed Service. On or after October 17, 1998, medical benefits can include all under the Basic Program and under the Program for Persons with Disabilities for the period that the spouse or child is in receipt of

transitional compensation under section 1059 of title 10 U.S.C.

(2) The spouse (including a former spouse) or child of a member or former member who while a member and as a result of misconduct involving abuse of the spouse or child has eligibility to receive retired pay on the basis of years of service terminated.

(B) *Requirements for categories of abused dependents.*—(1) *Abused spouse.* As long as the spouse is receiving payments from the DoD Military Retirement Fund under court order, the spouse is eligible for health care under the same conditions as any spouse of a retired member. The abused spouse must:

(i) Under paragraph (b)(2)(iii)(A)(1) of this section, be a lawful husband or wife or a former spouse of the member; or

(ii) Under paragraph (b)(2)(iii)(A)(2) of this section, be a lawful husband or wife or a former spouse of the member or former member, and the spouse is receiving payments from the Department of Defense Military Retirement Fund under 10 U.S.C.

1408(h) pursuant to a court order; and

(A) Be a victim of the abuse; and  
(B) Have been married to the member or former member at the time of the abuse; or

(C) Be the natural or adoptive parent of a dependent child of the member or former member who was the victim of the abuse.

(2) *Abused child.* The abused child must:

(i) Under paragraph (b)(2)(iii)(A)(1) of this section, be a dependent child of the member or former member.

(ii) Under paragraph (b)(2)(iii)(A)(2) of this section,

(A) Have been a member of the household where the abuse occurred; and

(B) Be an unmarried legitimate child, including an adopted child or stepchild of the member or former member; and

(C) Be under the age of 18; or

(D) Be incapable of self support because of a mental or physical incapacity that existed before becoming 18 years of age and be dependent on the member or former member for over one-half of his or her support; or

(E) If enrolled in a full-time course of study in an institution of higher learning recognized by the Secretary of Defense (for the purposes of 10 U.S.C. 1408(h)), be under 23 years of age and be dependent on the member or former member for over one-half of his or her support.

(F) The dependent child is eligible for health care, regardless of whether any court order exists, under the same conditions as any dependent of a retired member.

(3) *TAMP eligibles.* A former member, including his or her dependents, who is eligible under the provisions of the Transitional Assistance Management Program as described in paragraph (e) of this § 199.3.

(c) *Beginning dates of eligibility.* (1) Beginning dates of eligibility depend on the class to which the individual belongs and the date the individual became a member of the class. Those who join after the class became eligible attain individual eligibility on the date they join.

(2) Beginning dates of eligibility for each class of spouse (*excluding spouses who are victims of abuse and eligible spouses of certain deceased reservists*) are as follows:

(i) A spouse of a member for:

(A) Medical benefits authorized by the Dependents' Medical Care Act of 1956, December 7, 1956;

(B) Outpatient medical benefits under the Basic Program, October 1, 1966;

(C) Inpatient medical benefits under the Basic Program and benefits under the Program for Persons with Disabilities, January 1, 1967;

(ii) A spouse of a former member:

(A) For medical benefits under the Basic Program, January 1, 1967.

(B) Ineligible for benefits under the Program for Persons with Disabilities.

(iii) A former spouse:

(A) For medical benefits under the Basic Program, dates of beginning eligibility are as indicated for each category of eligible former spouse identified within paragraph (b)(2)(i) of this section.

(B) Ineligible for benefits under the Program for Persons with Disabilities.

(3) Beginning dates of eligibility for spouses who are victims of abuse (*excluding spouses who are victims of abuse of certain deceased reservists*) are as follows:

(i) An abused spouse meeting the requirements of paragraph (b)(2)(iii)(A)(1) of this section, including an eligible former spouse:

(A) For medical and dental care for problems associated with the physical or emotional abuse under the Basic Program for a period of up to one year (12 months) following the person's separation from the Uniformed Service, November 14, 1986.

(B) For all medical and dental benefits under the Basic Program for the period that the spouse is in receipt of transitional compensation under section 1059 of title 10 U.S.C., October 17, 1998.

(C) For medical and dental care for problems associated with the physical or emotional abuse under the Program for Persons with Disabilities for a period of up to one year (12 months) following

the person's separation from the Uniformed Service, November 14, 1986.

(D) For all medical and dental benefits described in section 199.5 for the period that the spouse is in receipt of transitional compensation under section 1059 of title 10 U.S.C., October 17, 1998.

(ii) An abused spouse meeting the requirements of paragraphs (b)(2)(iii)(A)(2) of this section, including an eligible former spouse:

(A) For all benefits under the CHAMPUS Basic Program, October 23, 1992.

(B) Ineligible for benefits under the Program for Persons with Disabilities.

(4) Beginning dates of eligibility for spouses of certain deceased reservists, *including spouses who are victims of abuse of certain deceased reservists*, are as follows:

(i) A spouse meeting the requirements of paragraph (b)(2)(i) of this section, including an eligible former spouse:

(A) For benefits under the Basic Program, November 14, 1986.

(B) Ineligible for benefits under the Program for Persons with Disabilities.

(ii) An abused spouse of certain deceased reservists, meeting the requirements of paragraphs (b)(2)(iii) of this section, including an eligible former spouse, *for the limited benefits and period of eligibility* described in paragraphs (b)(2)(iii) of this section:

(A) For benefits under the Basic Program, November 14, 1986.

(B) For benefits under the Program for Persons with Disabilities, November 14, 1986.

(iii) An abused spouse of certain deceased reservists, including an eligible former spouse, meeting the requirements of paragraphs (b)(2)(iii) of this section:

(A) For benefits under the Basic Program, October 23, 1992.

(B) Ineligible for benefits under the Program for Persons with Disabilities.

(5) Beginning dates of eligibility for each class of dependent children, (*excluding dependent children of certain deceased reservists, abused children and incapacitated children whose incapacity occurred between the ages of 21 and 23 while enrolled in a full-time course of study in an institution of higher learning*), are as follows:

(i) Legitimate child, adopted child, or legitimate stepchild of a member, for:

(A) Medical benefits authorized by the Dependents' Medical Care Act of 1956, December 7, 1956;

(B) Outpatient medical benefits under the Basic Program, October 1, 1966;

(C) Inpatient medical benefits under the Basic Program and benefits under the Program for Persons with Disabilities, January 1, 1967;

(ii) Legitimate child, adopted child or legitimate stepchild of *former members*:

(A) For medical benefits under the Basic Program, January 1, 1967.

(B) Ineligible for benefits under the Program for Persons with Disabilities.

(iii) Illegitimate child of a male or female *member or former member* whose paternity/maternity has been determined judicially and the member or former member has been directed to support the child, for:

(A) All benefits for which otherwise entitled, August 31, 1972.

(B) Program for Persons with Disabilities benefits limited to dependent children of *members only*, August 31, 1972.

(iv) Illegitimate child of:

(A) A male member or former member whose paternity *has not been* determined judicially:

(B) A female member or former member who resides with, or in a home provided by the member or former member, or who was residing in a home provided by the member or former member at the time of the member's or former member's death, and who is or continues to be dependent on the member for over one-half of his or her support, or was so dependent on the member or former member at the time of death;

(C) A spouse of a member or former member who resides with or in a home provided by the member or former member, or the parent who is the spouse of the member or former member or was the spouse of a member or former member at the time of death, and who is and continues to be dependent upon the member or former member for over one-half of his or her support, or was so dependent on the member or former member at the time of death; for:

(1) All benefits for which otherwise eligible, January 1, 1969.

(2) Program for Persons with Disabilities limited to dependent children of *members only*, January 1, 1969.

(6) Beginning dates of eligibility for children of certain deceased reservists who meet the requirements of paragraph (b)(2)(ii)(H)(3) of this section, *excluding incapacitated children who meet the requirements of paragraph (b)(2)(ii)(H)(2) of this section*, for:

(i) Benefits under the Basic program, November 14, 1986.

(ii) Not eligible for benefits under the Program for Persons with Disabilities.

(7) Beginning dates of eligibility for children who are victims of abuse, *including incapacitated children who meet the requirements of paragraph (b)(2)(ii)(H)(2) of this section* are as follows:

(i) An abused child meeting the requirements of paragraph (b)(2)(iii)(A)(1) of this section:

(A) Medical and dental care for problems associated with the physical or emotional abuse under the Basic Program for a period of up to one year (12 months) following the person's separation from the Uniformed Service, November 14, 1986.

(B) For all medical and dental benefits under the Basic Program for the period that the child is in receipt of transitional compensation under section 1059 of title 10 U.S.C., October 17, 1998.

(C) Medical and dental care for problems associated with the physical or emotional abuse under the Program for Persons with Disabilities for a period up to one year (12 months) following the person's separation from the Uniformed Service, November 14, 1986.

(D) For all medical and dental benefits described in section 199.5 for the period that the child is in receipt of transitional compensation under section 1059 of title 10 U.S.C., October 17, 1998.

(ii) An abused child meeting the requirements of paragraphs (b)(2)(iii)(A)(2) of this section:

(A) For all benefits under the CHAMPUS Basic Program, October 23, 1992.

(B) Ineligible for benefits under the Program for Persons with Disabilities.

(8) Beginning dates of eligibility for incapacitated children who meet the requirements of paragraph (b)(2)(ii)(H)(2) of this section, whose incapacity occurred between the ages of 21 and 23 while enrolled in a full-time course of study in an institution of higher learning approved by the Administering Secretary or the Department of Education, and, are or were at the time of the member's or former member's death, dependent on the member or former member for over one-half of their support, for:

(i) All benefits for which otherwise entitled, October 23, 1992.

(ii) Program for Persons with Disabilities benefits limited to children of *members only*, October 23, 1992.

(9) Beginning dates of eligibility for a child who meets the requirements of paragraph (b)(2)(ii)(H)(4) and:

(i) Has been placed in custody by a court:

(A) All benefits for which entitled, July 1, 1994.

(B) Program for Persons with Disabilities benefits limited to children of *members only*, July 1, 1994.

(ii) Has been placed in custody by a recognized adoption agency:

(A) All benefits for which entitled, October 5, 1994.

(B) Program for Persons with Disabilities benefits limited to children of *members only*, October 5, 1994.

(10) Beginning dates of eligibility for a retiree for:

(i) Medical benefits under the Basic Program January 1, 1967.

(ii) Retirees and their dependents are not eligible for benefits under the Program for Persons with Disabilities.

(d) *Dual eligibility*. Dual eligibility occurs when a person is entitled to benefits from two sources. For example, when an active duty member is also the dependent of another active duty member, a retiree, or a deceased active duty member or retiree, dual eligibility, that is, entitlement to direct care from the Uniformed Services medical care system and CHAMPUS is the result. Since the active duty status is primary, and it is the intent that all medical care be provided an active duty member through the Uniformed Services medical care system, CHAMPUS eligibility is terminated as of 12:01 a.m. on the day following the day the dual eligibility begins. However, any dependent children in a marriage of two active duty persons or of an active duty member and a retiree, are CHAMPUS eligible in the same manner as dependent children of a marriage involving only one CHAMPUS sponsor. Should a spouse or dependent who has dual eligibility leave active duty status, that person's CHAMPUS eligibility is reinstated as of 12:01 a.m. of the day active duty ends, if he or she otherwise is eligible as a dependent of a CHAMPUS sponsor.

**Note:** No CHAMPUS eligibility arises as the result of the marriage of two active duty members.

(e) *Eligibility Under the Transitional Assistance Management Program (TAMP)*. Transitional health care benefits under CHAMPUS are authorized for the applicable time period described, for:

(1) Up to thirty (30) days or until again covered by an employer-sponsored health plan, whichever occurs earlier, following release from active duty for:

(i) Activated Guard/Reserve and their dependents,

(ii) Involuntary stop-loss and their dependents,

(iii) Voluntary stop-loss and their dependents, and

(iv) Members who accepted Voluntary Separation Incentives (VSI).

(2) Sixty (60) days for regular DoD military and their dependents when the sponsor is involuntarily separated with less than six years of active service. Involuntary separation must occur

during the five-year period beginning October 1, 1990.

(3) One hundred twenty (120) days for regular military and their dependents when the sponsor is involuntarily separated with six or more years of active service. Involuntary separation must occur during the five year period beginning October 1, 1990. Each branch of service will determine eligibility, including dates, for its members and their dependents and provide data to DEERS.

(f) *Changes in status which result in termination of CHAMPUS eligibility.* Changes in status which result in a loss of CHAMPUS eligibility as of 12:01 a.m. of the day following the day the event occurred, unless otherwise indicated, are as follows:

(1) *Changes in the status of a member.*

(i) When an active duty member's period of active duty ends, excluding retirement or death.

(ii) When an active duty member is placed on desertion status (eligibility is reinstated when the active duty member is removed from desertion status and returned to military control).

**Note:** A member serving a sentence of confinement in conjunction with a sentence of punitive discharge is still considered on active duty until such time as the discharge is executed.

(2) *Changes in the status of a retiree.*

(i) When a retiree ceases to be entitled to retired, retainer, or equivalent pay for any reason, the retiree's dependents lose their eligibility unless the dependent is otherwise eligible (e.g., some former spouses, some dependents who are victims of abuse and some incapacitated children as outlined in paragraph (b)(2)(ii)(H)(2) of this section).

(ii) A retiree also loses eligibility when no longer entitled to retired, retainer, or equivalent pay.

**Note:** A retiree who waives his or her retired, retainer or equivalent pay is still considered a retiree for the purposes of CHAMPUS eligibility.

(3) *Changes in the status of a dependent.* (i) Divorce, except for certain classes of former spouses as provided in paragraph (b)(2)(i) of this section and the member or former member's own children (i.e., legitimate, adopted, and judicially determined illegitimate children).

**Note:** An unadopted stepchild loses eligibility as of 12:01 a.m. of the day following the day the divorce becomes final.

(ii) Annulment, except for certain classes of former spouse as provided in paragraph (b)(2)(i) of this section and the member or former member's own children (i.e., legitimate, adopted, and

judicially determined illegitimate children).

**Note:** An unadopted stepchild loses eligibility as of 12:01 a.m. of the day following the day the annulment becomes final.

(iii) Adoption, except for adoptions occurring after the death of a member or former member.

(iv) Marriage of a child, except when the marriage is terminated by death, divorce, or annulment before the child is 21 or 23 if an incapacitated child as provided in paragraph (b)(2)(ii)(H)(2) of this section.

(v) Marriage of a widow or widower, except for the child of the widow or widower who was the stepchild of the deceased member or former member at the time of death. The stepchild continues CHAMPUS eligibility as other classes of dependent children.

(vi) Attainment of entitlement to hospital insurance benefits (Part A) under Medicare except as provided in paragraphs (f)(3)(viii) and (f)(3)(ix) of this section. (This also applies to individuals living outside the United States where Medicare benefits are not available).

(vii) Attainment of age 65, except for dependents of active duty member's and beneficiaries not eligible for Part A Medicare. CHAMPUS eligibility is lost at 12:01 a.m. on the last day of the month preceding the month of attainment of age 65.

**Note:** If the person is not eligible for Part A of Medicare, he or she must file a Social Security Administration "Notice of Disallowance" certifying to that fact with the Uniformed Service responsible for the issuance of his or her identification card so a new card showing CHAMPUS eligibility can be issued. Individuals who lose their CHAMPUS eligibility because they have reached the age limitation or were eligible for Part A, Medicare cannot be reinstated under CHAMPUS. Additionally, individuals entitled only to supplementary medical insurance (Part B) of Medicare, but not Part A, or Part A through the Premium HI provisions (provided for under the 1972 Amendments to the Social Security Act retain eligibility under CHAMPUS (refer to section 199.8 of this part for additional information when a double coverage situation is involved).

(viii) End stage renal disease. All beneficiaries, except dependents of active duty members, lose their CHAMPUS eligibility when Medicare coverage becomes available to a person because of chronic renal disease unless the following conditions have been met. CHAMPUS eligibility will continue if:

(A) The individual is under 65 years old;

(B) The individual became eligible for Medicare under the provisions of 42 U.S.C. 426-1(a);

(C) The individual is enrolled in Part B of Medicare; and

(D) The individual has applied and qualified for continued CHAMPUS eligibility through the Defense Enrollment Eligibility Reporting System (DEERS).

(ix) Individuals with certain disabilities. Each case relating to Medicare eligibility resulting from being disabled requires individual investigation. All beneficiaries except dependents of active duty members lose their CHAMPUS eligibility when Medicare coverage becomes available to a disabled person unless the following conditions have been met. CHAMPUS eligibility will continue if:

(A) The individual is under 65 years old;

(B) The individual became eligible for Medicare under the provisions of 42 U.S.C. 426(b)(2);

(C) The individual is enrolled in Part B of Medicare; and

(D) The individual has applied and qualified for continued CHAMPUS eligibility through the Defense Enrollment Eligibility Reporting System (DEERS).

(x) Disabled students, that is children age 21 or 22, who are pursuing a full-time course of higher education and who, either during the school year or between semesters, suffer a disabling illness or injury with resultant inability to resume attendance at the institution remain eligible for CHAMPUS medical benefits for 6 months after the disability is removed or until the student passes his or her 23rd birthday, whichever occurs first. However, if recovery occurs before the 23rd birthday and there is resumption of a full-time course of higher education, CHAMPUS benefits can be continued until the 23rd birthday. The normal vacation periods during an established school year do not change the eligibility status of a dependent child 21 or 22 years old in a full time student status. Unless an incapacitating condition existed before, and at the time of, a dependent child's 21st birthday, a dependent child 21 or 22 years old in student status *does not* have eligibility and *may not* qualify for eligibility under the requirements related to mental or physical incapacity as described in paragraph (b)(2)(ii)(H)(2) of this section.

(g) *Reinstatement of CHAMPUS eligibility.* Circumstances which result in reinstatement of CHAMPUS eligibility are as follows:

(1) *End Stage renal disease.* Unless CHAMPUS eligibility has been



continued under paragraph (f)(3)(viii) of the section, when Medicare eligibility ceases for end-stage renal disease patients, CHAMPUS eligibility resumes if the person is otherwise still eligible. He or she is required to take action to be reinstated as a CHAMPUS beneficiary and to obtain a new identification card.

(2) *Disability.* Some disabilities are permanent, others temporary. Each case must be reviewed individually. Unless CHAMPUS eligibility has been continued under paragraph (f)(3)(ix) of this section, when disability ends and Medicare eligibility ceases, CHAMPUS eligibility resumes if the person is otherwise still eligible. Again, he or she is required to take action to obtain a new CHAMPUS identification card.

(h) *Determination of eligibility status.* Determination of an individual's eligibility as a CHAMPUS beneficiary is the primary responsibility of the Uniformed Service in which the member or former member is, or was, a member, or in the case of dependents of a NATO military member, the Service that sponsors the NATO member. For the purpose of program integrity, the appropriate Uniformed Service shall, upon request of the Director, OCHAMPUS, review the eligibility of a specific person when there is reason to question the eligibility status. In such cases, a report on the results of the review and any action taken will be submitted to the Director, OCHAMPUS, or a designee.

(i) *Procedures for determination of eligibility.* Procedures for the determination of eligibility are prescribed within the Department of Defense Instruction 1000.13 available at local military facilities personnel offices.

(j) *CHAMPUS procedures for verification of eligibility.* (1) Eligibility for CHAMPUS benefits will be verified through the Defense Enrollment Eligibility Reporting System (DEERS) maintained by the Uniformed Services, except for abused dependents as set forth in paragraph (b)(2)(iii) of this section. It is the responsibility of the CHAMPUS beneficiary, or parent, or legal representative, when appropriate, to provide the necessary evidence required for entry into the DEERS file to establish CHAMPUS eligibility and to ensure that all changes in status that may affect eligibility be reported immediately to the appropriate Uniformed Service for action.

(2) Ineligibility for CHAMPUS benefits may be presumed in the absence of prescribed eligibility evidence in the DEERS file.

(3) The Director, OCHAMPUS, shall issue guidelines as necessary to implement the provisions of this section.

4. Section 199.4 is amended by revising paragraphs (e)(5)(iii)(B), (f)(1), (f)(2), introductory text, (f)(2)(ii), introductory text, (f)(2)(iii), (f)(2)(iv), (f)(3), introductory text, (f)(3)(i), (f)(3)(iii), (f)(4), introductory text and (f)(4)(ii) to read as follows:

**§ 199.4 Basic program benefits.**

\* \* \* \* \*

(e) \* \* \*

(5) \* \* \*

(iii) \* \* \*

(B) In most instances, for costs related to kidney transplants, Medicare (not CHAMPUS) benefits will be applicable. If a CHAMPUS beneficiary participates as a kidney donor for a Medicare beneficiary, Medicare will pay for expenses in connection with the kidney transplant to include all reasonable preparatory, operation and postoperation recovery expenses associated with the donation (postoperative recovery expenses are limited to the actual period of recovery). (See section 199.3 of this part for additional information on end stage renal disease.)

\* \* \* \* \*

(f) \* \* \*

(1) *General.* As stated in the introductory paragraph to this section, the Basic Program is essentially a supplemental program to the Uniformed Services direct medical care system. To encourage use of the Uniformed Services direct medical care system wherever its facilities are available and appropriate, the Basic Program benefits are designed so that it is to the financial advantage of a CHAMPUS beneficiary or sponsor to use the direct medical care system. When medical care is received from civilian sources, a CHAMPUS beneficiary is responsible for payment of certain deductible and cost-sharing amounts in connection with otherwise covered services and supplies. By statute, this joint financial responsibility between the beneficiary or sponsor and CHAMPUS is more favorable for dependents of members than for other classes of beneficiaries.

(2) *Dependents of members of the Uniformed Services.* CHAMPUS beneficiary or sponsor liability set forth for dependents of members is as follows:

(i) \* \* \*

(ii) *Inpatient cost-sharing.* Dependents of members of the Uniformed Services are responsible for the payment of the first \$25 of the allowable institutional costs incurred with each covered

inpatient admission to a hospital or other authorized institutional provider (refer to § 199.6 of the part), or the amount the beneficiary or sponsor would have been charged had the inpatient care been provided in a Uniformed Service hospital, whichever is greater.

\* \* \* \* \*

(iii) *Outpatient cost-sharing.*

Dependents of members of the Uniformed Services are responsible for payment of 20 percent of the CHAMPUS-determined allowable cost or charge beyond the annual fiscal year deductible amount (as described in paragraph (f)(2)(i) of this section) for otherwise covered services or supplies provided on an outpatient basis by authorized providers.

\* \* \* \* \*

(iv) *Ambulatory surgery.*

Notwithstanding the above provisions pertaining to outpatient cost-sharing, dependents of members of the Uniformed Services are responsible for payment of \$25 for surgical care that is authorized and received while in an outpatient status and that has been designated in guidelines issued by the Director, OCHAMPUS, or a designee.

\* \* \* \* \*

(3) *Former members and dependents of former members.* CHAMPUS beneficiary liability set forth for former members and dependents of former members is as follows:

(i) *Annual fiscal year deductible for outpatient services or supplies.* The annual fiscal year deductible for otherwise covered outpatient services or supplies provided former members and dependents of former members is the same as the annual fiscal year outpatient deductible applicable to dependents of active duty members of rank E-5 or above (refer to paragraph (f)(2)(i)(A) or (B) of this section).

(ii) \* \* \*

(iii) *Outpatient cost-sharing.* Former members and dependents of former members are responsible for payment of 25 percent of the CHAMPUS-determined allowable costs or charges beyond the annual fiscal year deductible amount (as described in paragraph (f)(2)(i) of this section) for otherwise covered services or supplies provided on an outpatient basis by authorized providers.

\* \* \* \* \*

(4) *Former spouses.* CHAMPUS beneficiary liability for former spouses eligible under the provisions set forth in § 199.3 of this part is as follows:

(i) \* \* \*

(ii) *Inpatient cost-sharing.* Eligible former spouses are responsible for



payment of cost-sharing amounts the same as those required for former members and dependents of former members.

\* \* \* \* \*

6. Section 199.8 is amended by revising paragraphs (a) and (d)(1) to read as follows.

**§ 199.8 Double coverage.**

\* \* \* \* \*

(a) *Introduction.* (1) In enacting CHAMPUS legislation, Congress clearly has intended that CHAMPUS be the secondary payer to all health benefit and insurance plans. 10 U.S.C. 1079(j)(1) specifically provides:

"A benefit may not be paid under a plan (CHAMPUS) covered by this section in the case of a person enrolled in or covered by any other insurance, medical service, or health plan to the extent that the benefit also is a benefit under the other plan, except in the case of a plan (Medicaid) administered under title 19 of the Social Security Act (42 U.S.C. 1396, *et seq.*)"

(2) The above provision is made applicable specifically to retired members, dependents, and survivors by 10 U.S.C. 1086(d). The underlying intent, in addition to preventing waste of Federal resources, is to ensure that CHAMPUS beneficiaries receive maximum benefits while ensuring that the combined payments of CHAMPUS and other health benefit and insurance plans do not exceed the total charges.

\* \* \* \* \*

(d) \* \* \*  
(1) *CHAMPUS and Medicare.* Under certain circumstances a CHAMPUS beneficiary can also be eligible for Medicare. In any double coverage situation involving Medicare, Medicare is always the primary payer. When Part A, "Hospital Insurance," of Medicare is involved, the Medicare "lifetime reserve" benefit must be used before CHAMPUS benefits may be used. The procedures to be followed for these circumstances are as follows.

(i) *Dependents of active duty members.* For dependents of active duty members, payment will be determined in accordance with paragraph (c) of this section.

(ii) *Medicare end stage renal disease beneficiaries.* In any case involving a Medicare end stage renal disease beneficiary as provided in paragraph (f)(3)(viii) of § 199.3, CHAMPUS secondary payments will be determined in accordance with paragraph (c) of this section.

(iii) *Medicare disabled beneficiaries.* In any case involving a Medicare disabled beneficiary as provided in

paragraph (f)(3)(ix) of § 199.3, CHAMPUS payment is determined in accordance with paragraph (c) of this section.

\* \* \* \* \*

7. Section 199.20 is amended by adding paragraph (d)(1)(iv) to read as follows.

**§ 199.20 Continued Health Care Benefit Program (CHCBP).**

\* \* \* \* \*

(d) \* \* \*

(1) \* \* \*

(iv) An unmarried person who:

(A) Is placed in the legal custody of a member or former member by a court or who is placed in the home of a member or former member by a recognized placement agency in anticipation of the legal adoption of the child; and

(B) Either:

(1) Has not attained the age of 21 if not in school or age 23 if enrolled in a full time course of study at an institution of higher learning; or

(2) Is incapable of self-support because of a mental or physical incapacity which occurred while the person was considered a dependent of the member or former member; and

(C) Is dependent on the member or former member for over one-half of the person's support; and

(D) Resides with the member or former member unless separated by the necessity of military service or to receive institutional care as a result of disability or incapacitation; and

(E) Is not a dependent of a member or former member as described in § 199.3(b)(2).

\* \* \* \* \*

Dated: August 17, 1999.

**L.M. Bynum,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 99-21741 Filed 8-23-99; 8:45 am]

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## POSTAL SERVICE

### 39 CFR Part 20

#### Global Package Link Rate Adjustments and Introduction of Service to Argentina

**AGENCY:** Postal Service.

**ACTION:** Final rule.

**SUMMARY:** The Postal Service published an interim rule and request for comments concerning adjusting the rates for Global Package Link and introducing a new structure for volume discounts in the **Federal Register** (63 FR

66043) on December 1, 1998. In addition, service to Argentina was initiated. The Postal Service hereby gives notice that it is adopting the interim rule.

**EFFECTIVE DATE:** August 24, 1999.

**FOR FURTHER INFORMATION CONTACT:** Robert Michelson, (202) 268-5731.

**SUPPLEMENTARY INFORMATION:** Global Package Link (GPL) is an international mail service designed for companies sending merchandise packages to other countries. To use GPL, a customer is required to mail at least 10,000 packages per year using the service and agree to link its information systems with the Postal Service so that certain information about the contents of the customer's packages can be extracted for customs clearance and other purposes.

The Postal Service announced new rates and a new discount structure for GPL in the **Federal Register** (63 FR 66043) on December 1, 1998. The increased rates were the result of declining economic conditions in Japan and other countries and rising costs, including implementation of harmonization for all items to Japan. Overall, the base rates were increased approximately 9 percent. See Appendix 1 for specific rates to each GPL country.

Currently, GPL provides a volume discount within each country beginning at 100,000 packages. The new discount structure is based on a mailer's worldwide volume and discounts are available when volume reaches more than 25,000 packages per postal fiscal year. Discounts increase with volume on the basis of the following schedule:

Number of packages	Discount (percent)
25,001 to 50,000 .....	1
50,001 to 75,000 .....	2
75,001 to 100,000 .....	3
100,001 and over .....	4

Each year's discounts are calculated on the previous postal fiscal year's volume and apply to mailings made during the next calendar year. For example, a mailer who mails 55,000 packages during postal fiscal year 1998 (September 13, 1997, through September 11, 1998) will receive a discount from the base rate for all GPL mailings made during calendar year 1999 (January 1, 1999, through December 31, 1999). Postal fiscal year 1998 will be used for discounts applied in calendar year 1999.

The Postal Service also introduced GPL service to Argentina. Two levels of service, Premium and Standard, are offered. The maximum weight of parcels to Argentina is 44 pounds with a