

(9) \* \* \*

(ii) Benefits are available for otherwise covered services and supplies required in the treatment of complications (unfortunate sequelae) resulting from a noncovered incident of treatment provided in an MTF, when the initial noncovered service has been authorized by the MTF Commander and the MTF is unable to provide the necessary treatment of the complications, according to the guidelines adopted by the Director, TMA, or a designee.

\* \* \* \* \*

Dated: August 24, 2011.

**Patricia L. Toppings,**

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

[FR Doc. 2011-23762 Filed 9-15-11; 8:45 am]

BILLING CODE 5001-06-P

## DEPARTMENT OF DEFENSE

### Office of the Secretary

#### 32 CFR Part 199

[Docket ID: DOD-2010-HA-0071; RIN 0720-AB40]

#### **TRICARE; Changes Included in the National Defense Authorization Act for Fiscal Year 2010; Expansion of Survivor Eligibility Under the TRICARE Dental Program**

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

**ACTION:** Final rule.

**SUMMARY:** The Department is publishing this final rule to implement the National Defense Authorization Act for Fiscal Year 2010 (NDAA for FY10), as amended by the National Defense Authorization Act for Fiscal Year 2011 (NDAA for FY11). Specifically, that legislation expands the survivor eligibility under the TRICARE Dental Program (TDP). The 2011 amendment to the legislation entitles the surviving spouse and child(ren) continuation of eligibility for the TDP regardless of whether they were previously enrolled in the TDP. Prior enrollment in the TDP had been a requirement of the 2010 legislation for both the spouse and children. The period of continued eligibility for a spouse will be 3 years beginning on the date of the member's death. The legislation entitles a child to continuation of eligibility for the TDP for the longer of three years or until age 21 (or 23 for most full-time students). Survivors, who meet the new eligibility requirements, will obtain TDP eligibility as of the publishing of the final rule in the **Federal Register**. Retroactive

payment of premiums or claims paid for dental treatment during the time of loss of TDP eligibility will not be reimbursed to surviving dependents.

**DATES:** *Effective Date:* This rule is effective October 17, 2011.

**FOR FURTHER INFORMATION CONTACT:** Col. Jeffrey Chaffin, TRICARE Management Activity, telephone (703) 681-0039.

**SUPPLEMENTARY INFORMATION:** This final rule implements section 704 of the National Defense Authorization Act for Fiscal Year 2010 (NDAA for FY10), Public Law 111-84, as amended by Section 703 of the National Defense Authorization Act for Fiscal Year 2011 (NDAA for FY11), Public Law 111-83.

### **I. Background**

This final rule expands the survivor eligibility under the TRICARE Dental Program (TDP). The legislation entitles the surviving spouse and child(ren) continuation of eligibility for the TDP regardless of whether they were previously enrolled in the TDP. Prior enrollment in the TDP had been a requirement of the 2010 legislation for both the spouse and children. The period of continued eligibility for spouse will be 3 years beginning on the date of the member's death. The period of continued eligibility for children will be 3 years beginning on the date of the member's death or until age 21 (or age 23 for most full-time students).

The final rule will maintain the government's payment of both the government and dependent's portion of the premium share during the period of continuous enrollment.

### **II. Public Comments**

The proposed rule was published in the **Federal Register** on August 18, 2010, for a 60-day comment period. We received one comment expressing support of the extended eligibilities.

### **III. Regulatory Procedures**

#### *Executive Orders 12866 and 13563 and Regulatory Flexibility Act*

Executive Orders 12866 and 13563 require that a comprehensive regulatory impact analysis be performed on any significant regulatory action, defined as one that would result in an annual effect of \$100 million or more on the national economy or which would have other substantial impacts. 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 rule is not a significant regulatory

action and will not have a significant impact on a substantial number of small entities for purposes of the RFA, thus this final rule is not subject to any of these requirements.

#### *Paperwork Reduction Act*

This rule will not impose additional information collection requirements on the public under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3511).

#### *EO 13132, "Federalism"*

We have examined the impact(s) 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.

#### **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 199.13 is amended by revising paragraph (c)(3)(ii)(E)(2) to read as follows:

#### **§ 199.13 TRICARE Dental Program.**

\* \* \* \* \*

(c) \* \* \*

(3) \* \* \*

(ii) \* \* \*

(E) \* \* \*

(2) *Continuation of eligibility.* Eligible dependents of active duty members who die while on active duty for a period of more than 30 days and eligible dependents of members of the Ready Reserve (*i.e.*, Selected Reserve or Individual Ready Reserve, as specified in 10 U.S.C. 10143 and 10144(b) respectively) who die, shall be eligible for continued enrollment in the TDP. This continued enrollment shall be up to (3) three years from the date of the member's death, except that, in the case of a dependent of the deceased who is described in 10 U.S.C. section 1072(2) by subparagraph (D) or (I), the period of continued enrollment shall be the longer of the following periods

beginning on the date of the member's death:

(i) Three years.

(ii) The period ending on the date on which such dependent attains 21 years of age.

(iii) In the case of such dependent who, at 21 years of age, is enrolled in a full-time course of study in a secondary school or in a full-time course of study in an institution of higher education approved by the administering Secretary and was, at the time of the member's death, in fact dependent on the member for over one-half of such dependent's support, the period ending on the earlier of the following dates: The date on which such dependent ceases to pursue such a course of study, as determined by the administering Secretary; or the date on which such dependent attains 23 years of age.

\* \* \* \* \*

Dated: August 24, 2011.

**Patricia Toppings,**

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

[FR Doc. 2011-23761 Filed 9-15-11; 8:45 am]

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## DEPARTMENT OF DEFENSE

### Office of the Secretary

#### 32 CFR Part 256

[DoD Instruction 4165.57]

#### Air Installations Compatible Use Zones

**AGENCY:** Department of Defense.

**ACTION:** Final rule.

**SUMMARY:** This final rule removes the DoD's rule concerning air installations compatible use zones. The underlying DoD Instruction has been revised and it has been determined that there is no need to publish the revised DoD Instruction as a rule in the Code of Federal Regulations since the Instruction is for the internal management of the DoD.

**DATES:** *Effective Date:* September 16, 2011.

**FOR FURTHER INFORMATION CONTACT:** Ms. Patricia L. Toppings at 703-696-5284.

**SUPPLEMENTARY INFORMATION:** A copy of the current DoD Instruction may be obtained from <http://www.dtic.mil/whs/directives/corres/pdf/416557p.pdf>.

#### List of Subjects in 32 CFR Part 256

Armed forces; airports; environmental protection; Federal buildings and facilities; navigation (air); noise control.

## PART 256—[REMOVED]

■ Accordingly, by the authority of 5 U.S.C. 301, 32 CFR part 256 is removed.

Dated: August 24, 2011.

**Patricia L. Toppings,**

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

[FR Doc. 2011-23759 Filed 9-15-11; 8:45 am]

**BILLING CODE 5001-06-P**

## DEPARTMENT OF DEFENSE

### Office of the Secretary

#### 32 CFR Part 311

[Docket ID: DoD-2011-OS-0004]

#### Privacy Act of 1974; Implementation

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

**ACTION:** Direct final rule with request for comments.

**SUMMARY:** The Office of the Secretary of Defense is exempting those records contained in DMDC 13, entitled "Investigative Records Repository", when investigatory material is compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts, or access to classified information, but only to the extent that such material would reveal the identity of a confidential source.

This direct final rule makes nonsubstantive changes to the Office of the Secretary Privacy Program rules. These changes will allow the Department to add an exemption rule to the Office of the Secretary of Defense Privacy Program rules that will exempt applicable Department records and/or material from certain portions of the Privacy Act. This change will allow the Department to move part of the Department's personnel security program records from the Defense Security Service Privacy Program to the Office of the Secretary of Defense Privacy Program. This will improve the efficiency and effectiveness of DoD's program by preserving the exempt status of the applicable records and/or material when the purposes underlying the exemption(s) are valid and necessary. This rule is being published as a direct final rule as the Department of Defense does not expect to receive any adverse comments, and so a proposed rule is unnecessary.

**DATES:** The rule will be effective on November 25, 2011 unless comments are received that would result in a contrary determination. Comments will

be accepted on or before November 15, 2011.

**ADDRESSES:** You may submit comments, identified by docket number and title, by any of the following methods:

• *Federal Rulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

• *Mail:* Federal Docket Management System Office, 1160 Defense Pentagon, Washington, DC 20301-1160.

*Instructions:* All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at <http://www.regulations.gov> as they are received without change, including any personal identifiers or contact information.

**FOR FURTHER INFORMATION CONTACT:** Ms. Cindy Allard at (703) 588-6830.

#### SUPPLEMENTARY INFORMATION:

#### Direct Final Rule and Significant Adverse Comments

DoD has determined this rulemaking meets the criteria for a direct final rule because it involves nonsubstantive changes dealing with DoD's management of its Privacy Programs. DoD expects no opposition to the changes and no significant adverse comments. However, if DoD receives a significant adverse comment, the Department will withdraw this direct final rule by publishing a notice in the **Federal Register**. A significant adverse comment is one that explains: (1) Why the direct final rule is inappropriate, including challenges to the rule's underlying premise or approach; or (2) why the direct final rule will be ineffective or unacceptable without a change. In determining whether a comment necessitates withdrawal of this direct final rule, DoD will consider whether it warrants a substantive response in a notice and comment process.

#### Executive Order 12866, "Regulatory Planning and Review" and Executive Order 13563, "Improving Regulation and Regulatory Review"

It has been determined that Privacy Act rules for the Department of Defense are not significant rules. The rules do not (1) have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy; a sector of the economy; productivity; competition; jobs; the environment; public health or safety; or State, local, or tribal governments or