

premium penalty waiver for reasonable cause in a case of that kind.

(a) *An individual with responsibility for taking action was suddenly and unexpectedly absent or unable to act.* We consider such factors as the following: The nature of the event that caused the individual's absence or inability to act, for example, the resignation of the individual or the death or serious illness of the individual or a member of the individual's immediate family; the size of the organization and what kind of backup procedures it had to cope with such events; how close the event was to the deadline that was missed; how abrupt and unanticipated the event was; how the individual's absence or inability to act prevented compliance; how expensive it would have been to comply without the absent individual; whether and how other business operations and obligations were affected; how quickly and prudently a replacement for the absent individual was selected or other arrangements for compliance were made; and how quickly a replacement for the absent individual took appropriate action.

(b) *A fire or other casualty or natural disaster destroyed relevant records or prevented compliance in some other way.* We consider such factors as the following: The nature of the event; how close the event was to the deadline that was missed; how the event caused the failure to pay the premium; whether other efforts were made to get needed information; how expensive it would have been to comply; and how you responded to the event.

(c) *You reasonably relied on erroneous oral or written advice given by a PBGC employee.* We consider such factors as the following: Whether there was a clear relationship between your situation and the advice sought; whether you provided the PBGC employee with adequate and accurate information; and whether the surrounding circumstances should have led you to question the correctness of the advice or information provided.

(d) *You were unable to obtain information, including records and calculations, needed to comply.* We consider such factors as the following: What information was needed; why the information was unavailable; when and how you discovered that the information was not available; what attempts you made to get the information or reconstruct it through other means; and how much it would have cost to comply.

## **§ 25 What are some situations that might justify a partial "reasonable cause" waiver?**

(a) Assume that a fire destroyed the records needed to compute a premium payment. If in the exercise of ordinary business care and prudence it should take you one month to reconstruct the records and pay the premium, but the payment was made two months late, it might be appropriate to waive that part of the premium penalty attributable to the first month the payment was late, but not the part attributable to the second month.

(b) Assume that a plan administrator underpaid the plan's flat-rate premium because of reasonable reliance on erroneous advice from a PBGC employee, and also underpaid the plan's variable-rate premium because the plan actuary used the wrong interest rate. A PBGC audit revealed both errors. PBGC billed the plan for a premium penalty of \$5,000—\$1,000 for underpayment of the flat-rate premium and \$4,000 for underpayment of the variable-rate premium. The plan administrator requested a waiver of the premium penalty. While the erroneous PBGC advice constituted reasonable cause for underpaying the flat-rate premium, there was no showing of reasonable cause for the error in the variable-rate premium. Therefore, we would waive only the part of the premium penalty based on underpayment of the flat-rate portion of the premium (\$1,000).

### **Procedures**

[Reserved.]

Issued in Washington, DC, this 13th day of November, 2006.

**Elaine L. Chao,**

*Chairman, Board of Directors, Pension Benefit Guaranty Corporation.*

Issued on the date set forth above pursuant to a resolution of the Board of Directors authorizing its Chairman to issue this interim final rule.

**Judith R. Starr,**

*Secretary, Board of Directors, Pension Benefit Guaranty Corporation.*

[FR Doc. E6-19436 Filed 11-16-06; 8:45 am]

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## **DEPARTMENT OF DEFENSE**

### **Office of the Secretary**

#### **32 CFR Part 199**

[DoD-2006-OS-0209]

RIN 0720-AB02

#### **TRICARE; Changes Included in the National Defense Authorization Act for Fiscal Year 2006; TRICARE Dental Program**

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

**ACTION:** Interim final rule.

**SUMMARY:** The Department is publishing this interim final rule to implement section 713 of the National Defense Authorization Act for Fiscal Year 2006 (NDAA for FY06), Public Law 109-163. Specifically, that legislation expands the eligibility for survivor benefits under the TRICARE Dental Program (TDP) to include the active duty spouse of a member who dies while on active duty for a period of more than 30 days. The rule is being published as an interim final rule with comment period in order to comply with statutory effective dates. Public comments are invited and will be considered for possible revisions to the final rule.

**DATES:** This rule is effective November 17, 2006.

*Comments:* Written comments received at the address indicated below by January 16, 2007 will be accepted.

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

- Federal eRulemaking 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 or Regulatory Information Number (RIN) 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://regulations.gov> as they are received without change, including any personal identifiers or contact information.

**FOR FURTHER INFORMATION CONTACT:** Col. Gary C. Martin, Office of the Assistant Secretary of Defense (Health Affairs), TRICARE Management Activity, telephone (703) 681-0039.

**SUPPLEMENTARY INFORMATION:**

## I. Background

Currently, a surviving spouse who is a member of the armed forces on active duty for a period of more than 30 days at the time the other active duty military member spouse dies and subsequently separates from active duty, is ineligible for the TDP survivor benefit. The surviving active duty spouse is ineligible because he or she was not enrolled in the program at the time of the spouse's death. Active duty members are not eligible for enrollment in the TDP. There are many dual military couples in the armed forces and the authority provided by section 713 of the NDAA for FY06 will permit the Department to expand the eligibility for survivor benefits under the TDP to include the active duty spouse of a member who dies while on active duty for a period of more than 30 days who subsequently separates from active duty during the three-year survivor period.

## II. Regulatory Procedures

### Executive Order (EO) 12866

Executive Order 12866 requires that a comprehensive regulatory impact analysis be performed on any economically 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 an economically significant regulatory action and will not have a significant impact on a substantial number of small entities for purposes of the RFA, thus this interim final rule is not subject to any of these requirements. This rule, although not economically significant under Executive Order 12866, is a significant rule under Executive Order 12866 and has been reviewed by the Office of Management and Budget. This rule is being issued as an interim final rule, with comment period, as an exception to our standard practice of soliciting public comments prior to issuance. This is because the effective date of the changes to the TDP contained in section 713 of the NDAA for FY06 was January 6, 2006. This interim rule would amend the CFR to allow the TDP to conform to the new statutory authority. Based on these statutory requirements, the Assistant Secretary of Defense (Health Affairs) has determined that following the standard

practice in this case would be unnecessary, impractical and contrary to the public interest. Public comments are invited. All comments will be carefully considered. A discussion of the major issues received by public comments will be included with the issuance of the final rule.

### 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).

We have examined the impact(s) of the interim 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

Dental program, Dental health, Health care, Health insurance, Military personnel.

■ For the reasons set out in the preamble, the Department of Defense amends 32 CFR part 199 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 paragraphs (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 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), shall be eligible for continued enrollment in the TDP for up to three (3) years from the date of the member's death, if, on the date of the death of the member, the dependent is enrolled in the TDP, or is not enrolled by reason of discontinuance of a former enrollment under paragraphs

(c)(3)(ii)(E)(4)(ii) and (c)(3)(ii)(E)(4)(iii) of this section, or is not enrolled because the dependent was under the minimum age for enrollment at the time of the member's death, or is not qualified for enrollment because the dependent is a spouse who is a member of the armed forces on active duty for a period of more than 30 days but subsequently separates or is discharged from active duty. This continued enrollment is not contingent on the Selected Reserve or Individual Ready Reserve member's own enrollment in the TDP. During the three-year period of continuous enrollment, the government will pay both the Government and the beneficiary's portion of the premium share.

\* \* \* \* \*

Dated: November 13, 2006.

**L.M. Bynum,**

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

[FR Doc. E6–19437 Filed 11–16–06; 8:45 am]

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

### 33 CFR Part 117

[CGD08–06–002]

RIN 1625–AA09

### Drawbridge Operation Regulation; Missouri River, Iowa, Kansas, Missouri

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is revising the Missouri River drawbridge regulations covering Iowa, Kansas, and Missouri. The revisions will have the bridges open on signal except during the winter season which will require 24 hours advanced notice. These revisions to the regulations will reduce delays of the vessels transiting through these States on the Missouri River.

**DATES:** This rule is effective on December 18, 2006.

**ADDRESSES:** Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket CGD8–06–002 and are available for inspection or copying at room 2.107f, in the Robert A. Young Federal Building, Eighth Coast Guard District, 1222 Spruce Street, St. Louis, Missouri 63103–2832, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays. Commander (dw), Eighth