

Agency having emergency functions, as designated by Executive Order 12656?

(E) Is the position directly associated with industrial or manpower mobilization, as designated in Executive Orders 12656 and 12919?

(F) Are there other factors related to the national defense, health, or safety that will make the incumbent of the position unavailable for mobilization?

(2) [Reserved]

(b) *Non-Federal Employers of Ready Reservists.* Non-Federal employers of Ready Reservists, particularly in the fields of public health and safety and defense support industries, are encouraged to adopt personnel management procedures designed to preclude conflicts between the emergency manpower needs of civilian activities and the military during a mobilization. Employers also are encouraged to use the Federal key position guidelines contained in this appendix for making their own key position designations and, when applicable, for recommending key employees for removal from the Ready Reserve.

(c) All employers who determine that a Ready Reservist is a key employee, in accordance with the guidelines in this appendix, should promptly report that determination, using the letter format at the end of this appendix, to the applicable Reserve personnel center, requesting the employee be removed from the Ready Reserve.

#### Individual Ready Reservists

(a) Each Ready Reservist who is not a member of the Selected Reserve is obligated to notify the Secretary concerned of any change of address, marital status, number of dependents, or civilian employment and any other change that would prevent a member from meeting mobilization standards prescribed by the Military Service concerned (10 U.S.C. 10205).

(b) All Ready Reservists shall inform their employers of their Reserve military obligation.

#### List of Reserve Personnel Centers to Which Reserve Screening Determination and Removal Requests Shall be Forwarded

##### *Army Reserve*

Army Reserve Personnel Command  
1 Reserve Way  
ATTN: ARPC-PSP-T  
St. Louis, MO 63132

##### *Naval Reserve*

Commander  
Navy Personnel Command (Pers 91)  
5720 Integrity Drive  
Millington, TN 38055-9100

##### *Marine Corps Reserve*

Commanding General  
Marine Corps Reserve Support Command  
ATTN: IRR Division  
15303 Andrews Road  
Kansas City, MO 64147-1207

##### *Air Force Reserve*

Commander  
Air Reserve Personnel Center/DPAF  
6760 E. Irvington Pl. #2600

Denver, CO 80280-2600

##### *Army and Air National Guard*

Submit requests to the adjutant general of the applicable State, commonwealth, or territory (including the District of Columbia).

##### *Coast Guard Reserve*

Commander (CGPC-RPM)  
U.S. Coast Guard Personnel Command  
2100 Second St. S.W.  
Washington, DC 20593

#### Letter Format to Reserve Personnel Centers Requesting That Employee be Removed From the Ready Reserve

From: (Employer-Agency or Company)  
To: (Appropriate Reserve Personnel Center)  
Subject: Request for Employee to Be Removed from the Ready Reserve

This is to certify that the employee identified below is vital to the nation's defense efforts in (his or her) civilian job and cannot be mobilized with the Military Services in an emergency for the following reasons: [STATE REASONS]

Therefore, I request that (he/she) be removed from the Ready Reserve and that you advise me accordingly when this action has been completed.

The employee is:

1. Name of employee (last, first, M.I.):
2. Military grade and Reserve component:
3. Social security number:
4. Current home address (street, city, State, and ZIP code):
5. Military unit to which assigned (location and unit number):
6. Title of employee's civilian position:
7. Grade or salary level of civilian position:
8. Date (YYMMDD) hired or assigned to position:

Signature and Title of Agency or Company Official.

Dated: December 9, 1999.

**L.M. Bynum,**

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

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## DEPARTMENT OF DEFENSE

### Office of the Secretary

#### 32 CFR Part 199

#### Tricare; Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Nonavailability Statement Requirement for Maternity Care

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

**ACTION:** Interim final rule.

**SUMMARY:** This interim final rule implements Section 712(c) of the National Defense Authorization Act for Fiscal Year 2000 (Pub. L. No. 106-65), which requires that a nonavailability-of-health-care statement shall be required for a non-enrolled beneficiary for TRICARE cost-share of maternity care

services related to outpatient prenatal, outpatient or inpatient delivery, and outpatient post-partum care subsequent to the visit which confirms the pregnancy. The Act reestablishes a requirement which was previously eliminated under the broad direction of The National Defense Authorization Act of FY 1997, section 734, which removed authority for nonavailability statements (NASs) for outpatient services.

Therefore, the Act changes the existing provisions require an NAS for inpatient delivery but do not require an NAS for outpatient prenatal and post-partum care. The change will significantly contribute to continuity of care for maternity patients. In furtherance of that principle, and consistent with the previous policy, an NAS for maternity care shall not be required when a beneficiary has other health insurance for primary coverage. This is being issued as an interim final rule in order to comply with the statutory mandate. Public comments, however, are invited and will be considered in connection with possible revisions to this rule.

**DATES:** This rule is effective October 5, 1999 (the effective date of Section 712(c) of the National Defense Authorization Act for Fiscal Year 2000 (Pub. L. No. 106-65) which imposes the requirement). Written comments will be accepted until February 22, 2000.

**ADDRESSES:** Forward comments to Medical Benefits and Reimbursement Systems, TRICARE Management Activity, 16401 East Centretech Parkway, Aurora, CO 80011-9043.

**FOR FURTHER INFORMATION CONTACT:** Tariq Shahid, Medical Benefits and Reimbursement Systems, TRICARE Management Activity, telephone (303) 676-3801.

**SUPPLEMENTARY INFORMATION:** This interim final rule implements section 712(c) of the National Defense Authorization Act for Fiscal Year 2000 (Pub. L. No. 106-65) which requires that a nonavailability-of-health-care statement shall be required for TRICARE/CHAMPUS cost-share of maternity care services related to outpatient prenatal, outpatient or inpatient delivery, and outpatient post-partum care subsequent to the visit which confirms the pregnancy. The nonavailability statement requirement applies to non-enrolled TRICARE beneficiaries who live in a catchment area of a military treatment facility (MTF). Except for an emergency or when there is other primary health insurance coverage, these beneficiaries are required to obtain all maternity care from the MTF. If care is unavailable at the MTF, an NAS will be issued for the

beneficiary. The Act changes the existing provisions that require a nonavailability statement (NAS) for inpatient delivery but do not require an NAS for outpatient prenatal, outpatient delivery and post-partum care. The change will provide for continuity of care for maternity patients. Beneficiaries will need one NAS for the entire episode of maternity care that shall remain valid until 42 days following termination of the pregnancy.

#### Regulatory Procedure

Executive order 12866 requires certain regulatory assessments for any significant regulatory action, defined as one which would result in an annual effect on the economy of \$100 million or more, or 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 Interim Final Rule is not a significant regulatory action under E.O. 12866, nor would it have a significant impact on small entities. The changes set forth in the interim final rule are minor revision to the existing regulation.

The interim final rule will not impose additional information collection requirements on the public under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3511). 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. The Assistant Secretary of Defense (Health Affairs) has determined that following the standard practice in this case would be impracticable, unnecessary, and contrary to the public interest. This determination is based on several factors. First, this change directly implements a statutory amendment enacted by Congress expressively for this purpose. Second, this rule implements the statutory policy without embellishment. All public comments are invited.

#### List of Subject in 32 CFR Part 199

Claims, Handicapped, Health insurance, Military personnel.

#### PART 199—[AMENDED]

Accordingly, 32 CFR 199 is amended as follows:

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

**Authority:** 5 U.S.C. 301 and 10 U.S.C. Chapter 55.

2. Section 199.4(a) is amended by revising paragraphs (a)(9) and (a)(9)(i)(B).

#### § 199.4 Basic program benefits.

(a) \* \* \*

\* \* \* \* \*

(9) *Nonavailability Statements within a 40-mile catchment area.* In some geographic locations, it is necessary for CHAMPUS beneficiaries not enrolled in TRICARE Prime to determine whether the required medical care can be provided through a Uniformed Services facility. If the required care cannot be provided, the hospital commander, or designee, will issue a Nonavailability Statement (DD form 1251). Except for emergencies, a Nonavailability Statement should be issued before medical care is obtained from a civilian source. Failure to secure such a statement may waive the beneficiary's rights to benefits under CHAMPUS.

(i) \* \* \*

(A) \* \* \*

(B) For CHAMPUS beneficiaries who are not enrolled in TRICARE Prime, an NAS is required for services in connection with non-emergency inpatient hospital care and outpatient and inpatient maternity care if such services are available at a facility of the Uniformed Services located within a 40-mile radius of the residence of the beneficiary, except that an NAS is not required for services otherwise available at a facility of the Uniformed Services located within a 40-mile radius of the beneficiary's residence when another insurance plan or program provides the beneficiary primary coverage for the services. For maternity care, an NAS is required for services related to outpatient prenatal, outpatient or inpatient delivery, and outpatient post-partum care subsequent to the visit that confirms the pregnancy. The requirement for an NAS does not apply to beneficiaries enrolled in TRICARE Prime, even when those beneficiaries use the point-of-service option under § 199.17(n)(3).

\* \* \* \* \*

Dated: December 16, 1999.

**L.M. Bynum,**

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

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## DEPARTMENT OF DEFENSE

### Department of the Air Force

#### 32 CFR Part 806b

[Air Force Instruction 37-132]

#### Air Force Privacy Act Program

**AGENCY:** Department of the Air Force, DOD

**ACTION:** Final rule.

**SUMMARY:** The Department of the Air Force is adopting the exemption rule published on October 18, 1999, at 64 FR 56181 as final. No comments were received during the sixty day comment period.

**EFFECTIVE DATE:** December 17, 1999.

**FOR FURTHER INFORMATION CONTACT:** Mrs. Anne Rollins at (703) 588-6187.

**SUPPLEMENTARY INFORMATION:**  
**Executive Order 12866, 'Regulatory Planning and Review'**

It has been determined that this Privacy Act rule is not a significant regulatory action. The rule does not:

(1) Have an annual effect to the economy of \$100 million or more; or adversely affect in a material way the economy; a section of the economy; productivity; competition; jobs; the environment; public health or safety; or state, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another Agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof;

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

**Public Law 96-354, 'Regulatory Flexibility Act' (5 U.S.C. 601)**

It has been certified that this Privacy Act rule is not subject to the Regulatory Flexibility Act (5 U.S.C. 601) because it would not, if promulgated, have a significant economic impact on a substantial number of small entities.

**Public Law 96-511, 'Paperwork Reduction Act' (44 U.S.C. Chapter 35)**

It has been certified that this Privacy Act rule does not impose any reporting or record keeping requirements under the Paperwork Reduction Act of 1995.

#### List of subjects in 32 CFR part 806b

Privacy.

Accordingly, 32 CFR part 806b is revised to read as follows: