

**DEPARTMENT OF DEFENSE****Office of the Secretary****32 CFR Part 199**

[DoD–2009–HA–0097]

RIN 0720–AB35

**TRICARE; Elimination of Voluntary Disenrollment Lock-Out****AGENCY:** Office of the Secretary, Department of Defense.**ACTION:** Proposed rule.

**SUMMARY:** This proposed rule eliminates the 1 year lock-out for non-Active Duty members who disenroll from TRICARE Prime before their annual enrollment renewal date.

**DATES:** Comments must be received on or before December 28, 2009.

**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, Room 3C843 Pentagon, 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 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:** Kathleen Larkin at (703) 681–0039; TRICARE Policy and Operations, TRICARE Management Activity, 5111 Leesburg Pike, Suite 810, Falls Church, VA 22041.

**SUPPLEMENTARY INFORMATION:****I. Introduction and Background**

The TRICARE benefit was directed by Congress in section 1097 of the National Defense Authorization Act for Fiscal Year 1995. For further information on TRICARE, the reader may refer to the final rule regarding TRICARE published in the **Federal Register** on October 5, 1995.

*Administrative Change*

When TRICARE Prime was implemented, it was envisioned that TRICARE Prime enrollees would transfer their enrollment when they

moved to a new location. The reality is that some enrollees, such as college students, move several times a year. When TRICARE Prime is available at their new location, they transfer enrollment. However, TRICARE Prime might not be available at the gaining location, so they voluntarily disenroll in advance of their annual enrollment date. This automatically triggers a one year lock-out. This proposed rule eliminates the lock-out for active duty family members and allows TRICARE Prime enrollment when they relocate in an area that offers TRICARE Prime.

**II. Regulatory Procedures**

*Executive Order 12866, “Regulatory Planning and Review” and Public Law 96–354, “Regulatory Flexibility Act” (5 U.S.C. 601)*

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 proposed 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 proposed rule is not subject to any of these requirements.

*Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3511)*

This rule will not impose additional information collection requirements on the public.

*Executive Order 13132, “Federalism”*

We have examined the impacts of the 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.

*Section 202, Public Law 104–4, “Unfunded Mandates Reform Act”*

This rule does not contain unfunded mandates. It does not contain a Federal mandate that may result in the

expenditure by State, local and tribal governments, in aggregate, or by the private sector, of \$100 million or more in any 1 year.

**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 proposed to be 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 199.17 is amended by revising paragraph (o)(4) to read as follows:

**§ 199.17 TRICARE Program.**

\* \* \* \* \*

(o) \* \* \*

(4) *Voluntary disenrollment.* Any non-active duty beneficiary may disenroll at any time. Disenrollment will take effect in accordance with administrative procedures established by the Assistant Secretary of Defense (Health Affairs). Retired beneficiaries and their family members who disenroll prior to their annual enrollment renewal date will not be eligible to reenroll in Prime for a 1-year period from the effective date of the disenrollment. Active Duty family members may change their enrollment status twice in an enrollment year. Any additional disenrollment changes will result in an enrollment lock out for a 1-year period from the effective date of the disenrollment. Enrollment rules may be waived by the Assistant Secretary of Defense (Health Affairs) based on extraordinary circumstances.

\* \* \* \* \*

Dated: October 23, 2009.

**Patricia L. Toppings,**

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

[FR Doc. E9–26044 Filed 10–28–09; 8:45 am]

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**DEPARTMENT OF DEFENSE****Department of the Air Force**

[Docket ID: USAF–2009–0018]

**32 CFR Part 806b****Privacy Act; Implementation**

**AGENCY:** Department of the Air Force, DoD.

**ACTION:** Proposed rule with request for comments.