CHAPTER 8
SECTION 15.1

CUSTODIAL CARE TRANSITIONAL POLICY (CCTP)

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I. BACKGROUND

Section 701(c) of the National Defense Authorization Act (NDAA) for Fiscal Year 2002 changed the definition of custodial care. Effective December 28, 2001, custodial care is no longer defined by the condition of the patient but by the type of services being rendered. This transitional policy provides TRICARE coverage of medically necessary skilled services to eligible beneficiaries and will remain in effect as indicated herein.

II. DEFINITION

A. Custodial care. Prior to December 28, 2001, the term "custodial care" means care rendered to a patient:

1. Who is disabled mentally or physically and such disability is expected to continue and be prolonged, and

2. Who requires a protected, monitored, or controlled environment whether in an institution or in the home, and

3. Who requires assistance to support the essentials of daily living, and

4. Who is not under active and specific medical, surgical, or psychiatric treatment that will reduce the disability to the extent necessary to enable the patient to function outside the protected, monitored, or controlled environment.

B. Custodial care. Effective December 28, 2001, the term "custodial care" means treatment or services, regardless of who recommends such treatment or services or where such treatment or services are provided, that --(A) can be rendered safely and reasonably by a person who is not medically skilled; or (B) is or are designed mainly to help the patient with the activities of daily living.

C. Activities of daily living. Care that consists of providing food (including special diets), clothing, and shelter; personal hygiene services; observation and general monitoring; bowel training or management (unless abnormalities in bowel function are of a severity to result in a need for medical or surgical intervention in the absence of skilled services); safety

precautions; general preventive procedures (such as turning to prevent bedsores); passive exercise; companionship; recreation; transportation; and such other elements of personal care that reasonably can be performed by an untrained adult with minimal instruction or supervision. Activities of daily living may also be referred to as "essentials of daily living".

D. Eligible beneficiaries.

1. Active duty family members who are receiving medically necessary in-home skilled services through the CCTP at the start of health care delivery under the new TRICARE contracts in each former region under the previous Managed Care Support Contracts, and who require in-home skilled services beyond the limits of the Home Health Agency Prospective Payment System, are eligible to continue receiving those skilled services in-home through the CCTP.

2. Active duty family members who are not receiving medically necessary in-home skilled services through the CCTP at the start of health care delivery under the new TRICARE contracts in each former region under the previous Managed Care Support Contracts, but who require in-home skilled services beyond the limits of the Home Health Agency Prospective Payment System, are eligible to receive those service through the CCTP.

3. Non-active duty family member who are receiving medically necessary in-home skilled services through the CCTP at the start of health care delivery under the new TRICARE contracts in each former region under the previous Managed Care Support Contracts, and who require skilled services beyond the limits of the Home Health Agency Prospective Payment System, are eligible to continue receiving those skilled services in-home through the CCTP.

III. POLICY

Benefits are payable when an eligible beneficiary meets the custodial care definition under paragraph II.A. and requires medically necessary skilled services beyond what is provided by the Home Health Agency Prospective Payment System specified in the TRICARE Reimbursement Manual, Chapter 12.

IV. POLICY CONSIDERATIONS

A. For a beneficiary who meets the custodial care definition under II.A. and who requires medically necessary skilled services beyond what is provided by the Home Health Agency Prospective Payment System, TRICARE Reimbursement Manual, Chapter 12, "pass-through" funds may be used upon approval by the TRICARE Chief Medical Officer (CMO) or designee.

B. To obtain approval for the use of "pass-though" funds, the Managed Care Support Contractor (MCSC) shall submit a "custodial care determination letter" to the TRICARE CMO or designee. The letter may be sent by facsimile (fax) to (703) 681-1242.

C. The custodial care determination letter must include a concurrence line for the TRICARE CMO or designee and demonstrate that the beneficiary:

1. Is disabled mentally or physically and that such disability(ies) is(are) expected to continue and be prolonged;

2. Requires a protected, monitored or controlled environment;

3. Requires assistance to support the activities of daily living, and

4. Is not undergoing a plan of care which includes specific medical, surgical or psychiatric treatment that will reduce the disability(ies) to the extent necessary to enable the patient to function outside the protected, monitored or controlled environment.

NOTE: A program of physical and mental rehabilitation which is designed to reduce a disability is not custodial care as long as the objective of the program is a reduced level of care.

D. Upon completion of his/her review, the TRICARE CMO or designee will return the custodial care determination letter to the MCSC, generally by fax within one (1) business day of receipt of the letter, indicating concurrence or non-concurrence with the MCSC's determination that the beneficiary meets the custodial care definition under paragraph II.A.

E. The TRICARE CMO's or designee's concurrence with the custodial care determination constitutes approval for the MCSC to process the claims and bill the TRICARE program for the medically necessary skilled services for that beneficiary.

NOTE: The purpose of the custodial care determination letter is only to obtain the concurrence of the TRICARE CMO, or designee, that the beneficiary meets the definition of custodial care as stated under paragraph II.A. The MCSC remains responsible for determining the medical necessity of the requested skilled services.

F. The TRICARE CMO's or designee's decision regarding the custodial care determination is transferable between Health Service Regions, that is, the "receiving" MCSC will accept the current decision of the TRICARE CMO or designee and proceed to process claims accordingly.

G. The beneficiary will not be issued a custodial care determination.

H. The CMO's or designee's decision not to concur with the MCSC's determination that the beneficiary meets the definition of custodial care under paragraph II.A. may not be appealed.

I. When the TRICARE CMO or designee does not concur with the custodial care determination, the MCSC is responsible for all medically necessary services from current contract dollars.

J. Claims Processing. Claims for the medically necessary skilled services will be processed on a voucher with the custodial care special processing code "CT W" and paid with "pass-through" funds.

K. Appeal rights will be offered to the beneficiary for any denied skilled service.

L. For active duty family members, this CCTP will remain in effect from the start of health care delivery in each former region under the previous Managed Care Support Contracts until the start of the Extended Care Health Option (ECHO) in each of those former regions.

M. For non-active duty family members, this CCTP will remain in effect from the start of health care delivery in each former region under the previous Managed Care Support Contracts through December 31, 2004, or as otherwise directed by the Director, TRICARE Management Activity, or designee.

V. EXCLUSIONS

A. Custodial care is not a TRICARE benefit.

B. Beneficiaries who were receiving benefits under the ICMP-PEC as of December 27, 2001, and those grandfathered under the former home health care/case management demonstration project will continue to receive those services as grandfathered members of those programs, and will not be considered for the CCTP.

C. Non-active duty family members who are not receiving medically necessary in-home skilled services through the CCTP at the start of health care delivery through the new contracts in each former region under the previous Managed Care Support Contracts are not eligible for the CCTP.

VI. EFFECTIVE DATE

December 28, 2001.

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