

## PART 199.24 - TRICARE STANDARD COVERAGE FOR CERTAIN SELECTED RESERVE MEMBERS

**(a) Establishment.** TRICARE Reserve Select is established for the purpose of offering TRICARE health benefits to eligible members of the Selected Reserve and their immediate family.

(1) Purpose. TRICARE Reserve Select is a premium-based medical coverage program that will be available to certain members of the Selected Reserve and their immediate family as specified in paragraph (b) of this section.

(2) Statutory Authority. TRICARE Reserve Select is authorized by 10 U.S.C. 1076d.

(3) Scope of the Program. TRICARE Reserve Select is applicable in the 50 United States, the District of Columbia, Puerto Rico, and, to the extent practicable, other areas where members of the Selected Reserve serve. In locations other than the 50 states of the United States and the District of Columbia, the Assistant Secretary of Defense may authorize modifications to the program rules and procedures as may be appropriate to the area involved.

(4) Major Features of TRICARE Reserve Select. The major features of the program include the following:

(i) TRICARE rules applicable. (A) Unless specified in this section or otherwise prescribed by the Assistant Secretary of Defense (Health Affairs) (ASD(HA)), provisions of 32 CFR Part 199 apply to TRICARE Reserve Select.

(B) Certain special programs established in 32 CFR Part 199 are not available to enrollees in TRICARE Reserve Select. These include the Supplemental Health Care Program (see Sec. 199.16), the Extended Health Care Option Program (see Sec. 199.5), and the Special Supplemental Food Program (see Sec. 199.23). The TRICARE Dental Program (see Sec. 199.13) is independent of this program and is otherwise available to all members of the Selected Reserve and their dependents whether or not they are enrolled in TRICARE Reserve Select.

(ii) Enrollment system. Under TRICARE Reserve Select, eligible Reserve component members may enroll for self-only or self and family coverage. Rules and procedures for enrollment and payment of applicable premiums are prescribed in this section. When their enrollment becomes effective TRICARE Reserve Select beneficiaries receive the TRICARE Standard benefit, as described in Sec. 199.17.

(iii) Benefits. Eligible persons may be enrolled in TRICARE Reserve Select, which features the deductible and cost share provisions of the TRICARE Standard plan for active duty family members for both the member and the member's dependents. The TRICARE Standard plan is described in Sec. 199.17.

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**(b) Eligibility for enrollment in TRICARE Reserve Select.** (1) Eligibility. Individuals are eligible for enrollment in TRICARE Reserve Select who meet the eligibility criteria defined in paragraphs (b)(1)(i), (b)(1)(ii), or (b)(1)(iii) of this section.

(i) Members released from active duty after April 26, 2005. A member released from active duty after April 26, 2005 that is a member of a Reserve component of the Armed Forces is eligible for TRICARE Reserve Select if the member:

(A) Is called or ordered to active duty for a period of more than 30 days on or after September 11, 2001 under a provision of law referred to in 10 U.S.C. 101(a)(13)(B).

(B) Serves continuously on active duty for 90 days or more pursuant to such call or order to active duty (unless such continuous service on active duty is less than 90 days solely due to an injury, illness, or disease incurred or aggravated while deployed, as provided in 10 U.S.C. 1076d(b)(2)(A));

(C) Is released from active duty after April 26, 2005.

(D) On or before the date of release from active duty, agrees to serve continuously in the Selected Reserve for a period of 1 or more years upon release from active duty; and

(E) Meets the qualifications for continued membership in the Selected Reserve as determined by the member's Reserve component.

(ii) Members released from active duty on or before April 26, 2005. A member or former member of a Reserve component of the Armed Forces who was released from active duty on or before April 26, 2005 is eligible for TRICARE Reserve Select if the member:

(A) Was called or ordered to active duty for a period of more than 30 days on or after September 11, 2001 under a provision of law referred to in 10 U.S.C. 101(a)(13)(B).

(B) Served continuously on active duty for 90 days or more pursuant to such call or order to active duty (unless such continuous service on active duty is less than 90 days solely due to an injury, illness, or disease incurred or aggravated while deployed, as provided in 10 U.S.C. 1076d(b)(2)(A)).

(C) Was released from active duty on or before April 26, 2005.

(D) Prior to enrollment in TRICARE Reserve Select, signs an agreement no later than October 28, 2005 to serve continuously in the Selected Reserved for a period of 1 or more years; and

(E) Meets the qualifications for continued membership in the Selected Reserve as determined by the member's Reserve component.

(iii) Immediate family of reserve members. While an eligible member of a Reserve component is enrolled in TRICARE Reserve Select, dependents of such member, as defined in paragraphs (b)(2)(i) (except former spouses) and (b)(2)(ii) of this section are eligible to be enrolled for the same period as the member.

(2) Additional procedures applicable to eligibility. The Reserve components are responsible for determining members' duty status, periods of obligation, and other military personnel matters that are pertinent to establishing eligibility for TRICARE Reserve Select.

**(c) TRICARE Reserve Select enrollment procedures.** (1) Enrollment required. In order to be covered under TRICARE Reserve Select, eligible Reserve component members must complete and submit the applicable TRICARE enrollment form, and an initial premium required by paragraph (d) of this section. Enrollment is accomplished by submission of an application to the appropriate TRICARE Contractor in accordance with procedures established by the ASD(HA).

(2) Election of type of coverage. A member of a Reserve component who is eligible for enrollment under paragraph (b) of this section may elect self-only or self and family coverage. Family members who may be included in such family coverage are dependents referred to in paragraph (b)(1)(iii) of this section.

(3) Period of coverage. Except eligible members released from active duty on or before April 26, 2005, a member must before being released from active duty enter into an agreement to serve continuously in the Selected Reserve, and the member must meet the qualifications for continued service in the Selected Reserve as determined by the member's Reserve component. The member must then enroll in TRICARE Reserve Select prior to 30 days before the expiration of Transition Assistance Management Program (TAMP) benefits under Sec. 199.3(e) of this part.

(i) Except members released from active duty on or before April 26, 2005, coverage begins at the expiration of TAMP benefits under Sec. 199.3(e) of this part and runs continuously until eligibility expires or is otherwise terminated, or the member is disenrolled. (See paragraphs (c)(4)(i), (5), or (6) of this section.) When enrollment is terminated, a member may not re-enroll unless recalled to active duty and the member re-qualifies for a new period of benefits under paragraph (b) of this section.

(ii) For members released from active duty on or before April 26, 2005, coverage begins on the date that is the later of the expiration of TAMP benefits under Sec. 199.3(e) or the effective date of the member's agreement referred to in paragraph (b)(1)(ii)(D) of this section.

(iii) When a member enrolled in TRICARE Reserve Select is recalled to active duty for a period of more than 30 days TRICARE Reserve Select coverage is superseded by active duty military medical benefits for the member and for any family member enrolled in TRICARE Reserve Select, but the coverage period continues to run. When the member is released from active duty, TRICARE Reserve Select coverage will resume for the member (and the member's family members provided the member had been enrolled in self and family coverage on the date TRICARE Reserve Select coverage was superseded by active duty health benefits). TRICARE Reserve Select coverage will continue until the member's eligibility expires or is otherwise terminated, or the member is disenrolled. (See paragraphs (c)(4)(i), (5), or (6) of this section.) Following the member's release from active duty, TRICARE Reserve Select coverage will also be superseded by TAMP benefits under Sec. 199.3(e) of this Part, if applicable. In addition, TRICARE Reserve Select coverage is also superseded, if applicable, by any period of early TRICARE coverage based on delayed effective date orders under Sec. 199.3(b)(5) of this Part or by a new enrollment, as a result of re-qualifying through another period of active duty service in support of a contingency

operation under Sec. 199.24(c) of this Part. During any period in which TRICARE Reserve Select coverage is superseded, no premium payments for TRICARE Reserve Select are due.

(iv) Members who are eligible for TRICARE Reserve Select under paragraph (b) of this section may enroll for one year of TRICARE Reserve Select coverage for every 90 days of continuous active-duty service, subject to the limitation in paragraph (c)(3)(v) of this section. If such continuous service on active duty is less than 90 days solely due to an injury, illness, or disease incurred or aggravated while deployed, then the otherwise eligible member may enroll for one year of TRICARE Reserve Select coverage, as provided in 10 U.S.C. 1076d(b)(2)(A).

(v) The number of years for which the member and family are eligible under paragraph (c)(3)(iv) of this section may not exceed the number of whole years for which the member agrees to continue service in the Selected Reserves before coverage begins, per the service agreement entered into under paragraph (b)(1) of this section. The number of years established by the member's agreement that was entered into prior to beginning coverage under TRICARE Reserve Select may not later be changed, even if that number of years was fewer than the maximum number of years that the member could have established in the agreement. The number of years of coverage may only be changed if the member is recalled to active duty and the member re-qualifies for a new period of benefits under paragraph (b) of this section.

(vi) When a member's eligibility is terminated or the member is disenrolled from TRICARE Reserve Select under paragraphs (c)(4)(i), (5), or (6) of this section, the member may not re-enroll unless recalled to active duty and the member re-qualifies for a new period of benefits under paragraph (b) of this section.

(4) Changes to type of coverage. Under certain circumstances, reserve members may change their TRICARE Reserve Select type of coverage.

(i) Disenrollment. Reserve members may disenroll from the program at any time by notifying the appropriate TRICARE office. Disenrollment of the member will result in automatic disenrollment of the member's family members in TRICARE Reserve Select.

(ii) Change from self and family type of coverage to self-only type of coverage. After initial enrollment, sponsors may change type of coverage from self and family to self-only only when an event occurs that changes the composition of the family, such as divorce, legal separation, or death of a family member, or changes in family employment or health coverage status. The change will become effective in accordance with procedures established by the ASD(HA).

(iii) Change from self-only type of coverage to self and family type of coverage. After initial enrollment, the reserve member may change type of coverage from self-only to self and family only when an event occurs that changes the composition of the family, such as the birth of a child, marriage of the sponsor, legal adoption of a child, or placement by a court of a child as a legal ward in the sponsor's home, or certain events affecting family health coverage, such as an employment change. The change will become effective in accordance with procedures established by the ASD(HA).

(5) Effect of failure to pay applicable premiums. Failure by enrollees to make a premium payment as required in a timely manner will result in automatic disenrollment from TRICARE Reserve Select and denial of payment of claims for services provided on or after the first day of the month for which the premium payment was not paid. Beneficiaries disenrolled due to lack of premium payments will not be allowed to re-enroll, absent the member acquiring a new period of eligibility based upon qualifying active duty service after the date of disenrollment. Disenrollment of the member for failure to pay applicable premiums will also result in automatic disenrollment of the member and the member's family members from TRICARE Reserve Select.

(6) Ineligibility. A reserve member who ceases to be eligible for TRICARE Reserve Select as specified in paragraph (b) of this section or whose eligibility is terminated based on termination of the member's service in the Selected Reserve shall be disenrolled and shall no longer be eligible. Disenrollment of the member due to ineligibility will result in automatic disenrollment of the member's family members in TRICARE Reserve Select.

(7) Effective date of disenrollment. Disenrollments become effective:

(i) In the case of disenrollment due to ineligibility (other than relating to the death of a member), on the date of ineligibility.

(ii) In the case of disenrollment due to nonpayment of premiums, at the end of the last month for which premiums were paid.

(iii) In all other cases, at the end of the month in which the event causing disenrollment occurred.

(8) Periodic revision. Periodically, certain features, rules or procedures of TRICARE Reserve Select may be revised. If such revisions will have a significant effect on participants' costs or access to care, beneficiaries may be given the opportunity to change their enrollment status coincident with the revisions.

**(d) TRICARE Reserve Select premiums.** Premiums shall be charged for coverage under TRICARE Reserve Select. Premiums are to be paid monthly, except as otherwise provided through administrative implementation, pursuant to procedures established by the ASD(HA).

(1) Establishment of rates. (i) TRICARE Reserve Select monthly premium rates are established annually on a calendar year basis by the ASD(HA) for the two *types of coverage*--self-only and self and family. The annual rates are based on 28 percent of the total estimated amount (rounded to the nearest dollar) reasonable for health care coverage for the TRICARE Reserve Select eligible population under the TRICARE Standard benefit, as determined by the ASD(HA) on an appropriate actuarial basis. The monthly rate for each month of a calendar year is one-twelfth of the annual rate for that calendar year, rounded to the nearest dollar.

(ii) Initial annual rates are based on the annual premiums for the Blue Cross and Blue Shield Standard Service Benefit Plan under the Federal Employees Health Benefits Program, a nationwide plan closely resembling TRICARE Standard coverage, with an adjustment based on estimated differences in covered populations, as determined by the ASD(HA).

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(2) Premium adjustments. In addition to the determinations described in paragraph (d)(1) of this section, premium adjustments may be made prospectively for any calendar year to reflect any significant program changes or any actual experience in the costs of administering the TRICARE Reserve Select Program.

(3) Premium rates for calendar year 2005. (i) For calendar year 2005, the annual premium for self-only coverage under TRICARE Reserve Select is \$900.

(ii) For calendar year 2005, the annual premium for self and family coverage under TRICARE Reserve Select is \$2,796.

**(e) Relationship to Continued Health Care Benefits Program.** If at the time a member enrolls in TRICARE Reserve Select, or resumes TRICARE Reserve Select coverage after a period in which coverage was superseded under paragraph (c)(3)(iii) of this section, the member was also eligible to enroll in the Continued Health Care Benefits Program (CHCBP) under Sec. 199.20(d)(1)(i) of this part (except to the extent eligibility in CHCBP was affected by enrollment in TRICARE Reserve Select), enrollment in TRICARE Reserve Select will be deemed to also constitute preliminary enrollment in CHCBP. If for any reason the member becomes disenrolled from TRICARE Reserve Select before the date that is 18 months after discharge or release from the most recent period of active duty upon which CHCBP eligibility was based, the member or the member's family members eligible to be included in CHCBP coverage may, within 30 days of the effective date of the disenrollment, begin CHCBP coverage by paying the applicable premium. The period of coverage will be as provided in Sec. 199.20(d)(6) of this part.

**(f) Preemption of State laws.** (1) Pursuant to 10 U.S.C. 1103, the Department of Defense has determined that in the administration of chapter 55 of title 10, U.S. Code, preemption of State and local laws relating to health insurance, prepaid health plans, or other health care delivery or financing methods is necessary to achieve important Federal interests, including but not limited to the assurance of uniform national health programs for military families and the operation of such programs at the lowest possible cost to the Department of Defense, that have a direct and substantial effect on the conduct of military affairs and national security policy of the United States. This determination is applicable to contracts that implement this section.

(2) Based on the determination set forth in paragraph (e)(1) of this section, any State or local law or regulation pertaining to health insurance, prepaid health plans, or other health care delivery, administration, and financing methods is preempted and does not apply in connection with TRICARE Reserve Select. Any such law, or regulation pursuant to such law, is without any force or effect, and State or local governments have no legal authority to enforce them in relation to TRICARE Reserve Select. (However, the Department of Defense may, by contract, establish legal obligations on the part of DoD contractors to conform with requirements similar to or identical to requirements of State or local laws or regulations with respect to TRICARE Reserve Select.)

(3) The preemption of State and local laws set forth in paragraph (e)(2) of this section includes State and local laws imposing premium taxes on health insurance carriers or underwriters or other plan managers, or similar taxes on such entities. Such laws are laws relating to health insurance, prepaid health plans, or other health care delivery or financing methods, within the meaning of 10 U.S.C. 1103. Preemption, however, does not apply to

taxes, fees, or other payments on net income or profit realized by such entities in the conduct of business relating to DoD health services contracts, if those taxes, fees or other payments are applicable to a broad range of business activity. For the purposes of assessing the effect of Federal preemption of State and local taxes and fees in connection with DoD health services contracts, interpretations shall be consistent with those applicable to the Federal Employees Health Benefits Program under 5 U.S.C. 8909(f).

**(g) Administration.** The ASD(HA) may establish other rules and procedures for the effective administration of TRICARE Reserve Select, and may authorize exceptions to requirements of this section, if permitted by law, based on extraordinary circumstances.

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