CHAPTER 8
SECTION 15.1

CUSTODIAL CARE TRANSITIONAL POLICY (CCTP)

ISSUE DATE: June 11, 2002
AUTHORITY: Section 713, National Defense Authorization Act, Fiscal Year 2005;
ASD(HA) Decision Paper, March 1, 2004;
Interim Final Rule: 67 Federal Register 114, June 13, 2002

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 (ADFMs) 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 (MCS) contracts, and who require in-home skilled services beyond the limits of the Home Health Agency Prospective Payment System (HHA-PPS), are eligible to continue receiving those skilled services in-home through the CCTP.

2. ADFMs 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 MCS contracts, but who require in-home skilled services beyond the limits of the HHA-PPS, are eligible to receive those service through the CCTP.

NOTE: Beneficiaries described in paragraphs II.D.1. and 2. whose sponsor retires from active duty will remain eligible for the CCTP as a non-active duty family members (NADFMs) described in paragraph II.D.3.

NOTE: Beneficiaries described in paragraphs II.D.1. and 2. who become a Transitional Survivor are eligible for the CCTP.

3. NADFMs 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 MCS contracts, and who require skilled services beyond the limits of the HHA-PPS, are eligible to continue receiving those skilled services in-home through the CCTP.

III. POLICY

A. Benefits are payable when an eligible beneficiary, as described in paragraph II.D., meets the custodial care definition under paragraph II.A. and requires medically necessary skilled services beyond what is provided by the HHA-PPS specified in the TRICARE Reimbursement Manual, Chapter 12, or the Extended Care Health Option Home Health Care (EHHC) benefit specified in TRICARE Policy Manual, Chapter 9, Section 15.1.

B. Section 713 of the National Defense Authorization Act for Fiscal Year 2005 authorized continuation of the CCTP from the start of health care delivery in each of the former regions under the previous MCS contracts until directed otherwise by the Director, TRICARE Management Activity or designee.

1. ADFMs who are eligible for the CCTP in accordance with paragraphs II.D.1. or 2. or the "Notes" therein, may continue receiving services through the CCTP until the Extended

Care Health Option (ECHO) is implemented. At that time, those ADFMs who are otherwise eligible, will be reassigned to the ECHO.

NOTE: ADFMs who are receiving medically necessary in-home skilled services through the CCTP at the start of health care delivery under the new ECHO program for whom the ECHO does not provide a level of in-home skilled services commiserate with the level provided by the CCTP, as assessed by the Managed Care Support Contractors (MCSCs) on an annual basis and when a beneficiary moves, may remain in the CCTP as long as necessary. The annual assessment shall include a determination that the fiscal year financial cap established in accordance with TRICARE Policy Manual, Chapter 9, Section 15.1 will not support the level of care required. In addition, the contractors shall submit an "information" copy of the annual assessment to the TRICARE Chief Medical Officer (CMO) or designee. The assessment may be sent by facsimile to (703) 682-1242.

2. NADFMs who are eligible for the CCTP in accordance with paragraph II.D.3. may continue receiving services through the CCTP until such time as the MCSC determines that a beneficiary's medically necessary skilled services can be appropriately provided by another TRICARE program.

IV. POLICY CONSIDERATIONS

A. Upon the contractor's determination that an ADFM meets the eligibility requirements stated in paragraphs II.D.1. or 2., or the "Notes" therein, the contractor shall submit a "custodial care determination letter" for concurrence by the TRICARE CMO or designee. The letter may be sent by facsimile to (703) 682-1242.

B. 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.

C. 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.

D. CCTP claims are to be paid as non-underwritten health care and should be reported as such. TED records for these claims must reflect both special processing codes "CT" and "W".

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.

E. 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.

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

G. 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.

H. When the TRICARE CMO or designee does not concur with the custodial care determination, the MCSC is responsible for all medically necessary services in accordance with the current MCS contracts.

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

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. ADFMs who are not receiving medically necessary in-home skilled services through the CCTP at the start of the ECHO are not eligible for the CCTP.

D. NADFMs 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 MCS contracts are not eligible for the CCTP.

VI. EFFECTIVE DATE December 28, 2001.

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