

Chapter 13

Section 5

Provider Exclusions, Terminations, And Temporary Suspension of Claim(s) Payments

Revision: C-98, September 16, 2021

1.0 SCOPE AND PURPOSE

This section specifies which individuals and entities may, or in some cases **will**, be excluded from the TRICARE Program. It outlines the authority given to the Department of Health and Human Services/Office of Inspector General (DHHS/OIG) to impose exclusions from all Federal health care programs, including **the TRICARE Program**. This section also outlines the Defense Health Agency (DHA) authority for exclusions and terminations. In addition, this section states the effect of exclusion, factors considered in determining the length of exclusion, and provisions governing notices, determinations, and appeals. This section also outlines procedures and protocol for **temporary** suspension of claim **payments**.

1.1 The Uniformed Services Family Health Plan (USFHP) is exempt from this requirement.

1.2 The Accountable Care Organization (ACO) is partially exempt as follows:

1.2.1 All claims where care is provided and paid by the ACO are exempt from this requirement. These claims are reported to DHA using the Batch TRICARE Encounter Data (TED) Record(s) process.

1.2.2 All claims paid by the Government but 100% reimbursed to the Government by the ACO are exempt from this requirement. These claims are reported to DHA using the Voucher TED Record(s) process.

1.2.3 All claims where costs are shared by the ACO and the Government or are paid entirely by the Government are subject to the requirements specified in this section. These claims are reported to DHA using the Voucher TED Record(s) process. All transactions related to these claims, to include reimbursement by the ACO, shall be held in temporary suspense in accordance with the provisions outlined in this section.

1.3 Future Healthcare Programs Funded Under A Capitation Agreement

All healthcare claims where the healthcare services provided are 100% covered under a capitation (**Appendix A**) agreement are exempt from this requirement. All healthcare claims not 100% covered under a capitation agreement (to include shared costs) are subject to the temporary suspension requirements outlined in this section.

2.0 DHA AUTHORITY FOR TEMPORARY SUSPENSION OF CLAIM(S) PAYMENTS

2.1 DHA temporarily suspends claim(s) payments to specific providers, pharmacies, entities or client beneficiaries based upon fraud, abuse or conflict of interest per 32 CFR 199.9(h) provisions. See Appendix A for the definition of "client beneficiary."

2.2 The Director, DHA or designee temporarily suspends claim(s) payments without notifying the provider, pharmacy, entity, or client beneficiary to protect the public fisc. The Government will advise the provider, pharmacy, or entity within 30 days of the claim(s) payment suspension that a temporary suspension has been ordered with a statement of the basis of the decision to suspend payment.

2.3 The contractor shall send the temporary suspension of payment notification (Addendum A, Figure 13.A-6 or Figure 13.A-7 as appropriate) to the provider, pharmacy, entity, or client beneficiary in lieu of sending an Explanation of Benefits (EOB) or other claim settlement notifications of a claim(s) payment suspension.

2.3.1 The contractor shall not send out claim(s) payment temporary suspension notifications above normal claim(s) settlement notifications.

2.3.2 The contractor shall not send out any document (EOB, etc.) to the client beneficiary stating an amount owed by the client beneficiary to the temporarily suspended provider during the suspension period.

2.4 The claim(s) payment suspension is for a temporary period pending the completion of investigation, to include any ensuing legal or administrative proceedings, unless sooner terminated by the Director, DHA or designee. See 32 CFR 199.9(h) for additional guidance.

Note: Both the Government and the contractor are sending out temporary suspension notifications. The contractor shall send out the standard temporary suspension notification (Addendum A, Figure 13.A-6 or Figure 13.A-7 as appropriate) in lieu of sending an EOB. The letters notify the provider or client beneficiary the claim was received but not paid at Government direction. The Government will send out the letter advising the provider why payments were suspended and how to proceed to remove the claim(s) from suspension.

2.5 Contractor Responsibilities

2.5.1 Upon notification from DHA to temporarily suspend claim(s) payments to specific providers, pharmacies, entities, or client beneficiaries, the contractor shall take the following six actions:

2.5.1.1 Cancel all pending non-underwritten and underwritten payments where funds have not been mailed or electronically transmitted, and the contractor can stop the release of funds in accordance with paragraph 2.5.2.

2.5.1.2 Follow Government direction in regard to underwritten debt. If instructed to convert debt from underwritten to non-underwritten, then submit an invoice in accordance with paragraph 2.5.3. This paragraph does not apply to the TRICARE Overseas Program (TOP), TRICARE Pharmacy (TPharm) and TRICARE Dual Eligible Fiscal Intermediary (TDEFIC) contracts.

2.5.1.3 Cease all further collection of non-underwritten debt related to the temporarily suspended provider, pharmacy, entity, and client beneficiary in accordance with [paragraph 2.5.4](#).

2.5.1.4 Temporarily suspend the processing of updates to all non-underwritten and underwritten claims received and paid prior to receiving the notice of suspension in accordance with [paragraph 2.5.5](#).

2.5.1.5 Process all new non-underwritten and underwritten claims received after the notification of temporary suspension in accordance with [paragraph 2.5.6](#).

2.5.1.6 Forward all funds received after the notice of temporary suspension from or on behalf of the suspended providers, pharmacies or entities to DHA, Contract Resource Management (CRM) in accordance with [paragraph 2.5.7](#).

2.5.2 Attempt To Withhold The Release Of Payments Where Funds Have Not Been Mailed Or Electronically Transmitted At The Time Of Temporary Suspension Notice

Where reasonably possible, the contractor shall try to prevent the release of Government payments to a temporary suspended provider when notified of the provider's suspension. This requirement does not apply to all payments pending release. The Government understands there is a stage in the disbursement process where, though the payments have not been mailed or transmitted, they have progressed to a point where they cannot be stopped without significant effort and cost.

2.5.2.1 The contractor shall determine the point, if any, where the release of payments for claims received prior to receiving the notice of temporary suspension can be stopped.

2.5.2.2 The contractor shall, for all payments intercepted prior to release and reported as paid to DHA on a TED Record(s), update (usually Cancel) previously reported TED Record(s) (contractor report of payment) to show no payment occurred.

2.5.2.3 The contractor shall not cancel or issue a stop payment order on any Electronic Funds Transfers (EFTs) or checks where the wire transfer has already been sent, where the check has been mailed, or where payment was not intercepted.

2.5.2.4 The contractor shall, for any payment that is returned, or becomes stale-dated, or is on the refund file (in the process of crediting back), process claims in accordance with [paragraph 2.6](#).

2.5.2.5 The contractor shall process all collections received prior to the notice of suspension from or on behalf of any temporarily suspended provider, pharmacy, or entity in accordance with [paragraph 2.6](#).

2.5.2.6 Pharmacy contractor only. The contractor shall process all pending reversals up to the date of temporary suspension notification. All reversals received on or after receipt of the notice of suspension shall be held by the contractor unless notified by DHA, PI to process the reversals.

2.5.3 Procedure For Converting Underwritten Debt To Non-Underwritten Debt (Excludes TOP, TPharm, And TDEFIC Contracts)

At the Government's discretion, the Government will require the contractor to convert its

underwritten debt to non-underwritten debt. The conversion of debt (underwritten to non-underwritten) shall not involve the temporarily suspended provider(s), pharmacy(s) or entity(s); the debt conversion is an administrative transaction between the contractor and the Government. If required to convert debt from underwritten to non-underwritten the contractor shall:

2.5.3.1 Submit an invoice billing the Government for the debt owed to the contractor by the temporarily suspended provider, pharmacy, or entity. The supporting documentation shall include the amount owed by TED Record(s) Indicator (TRICARE Systems Manual (TSM), [Chapter 2, Section 2.9](#)).

2.5.3.2 The Government will issue payment to the contractor and record an Accounts Receivable entry in the accounting system under the temporarily suspended provider, pharmacy, or entity name. The Government will not attempt collection during the suspension period.

2.5.3.3 At the Government's discretion, debt converted from underwritten to non-underwritten will be returned to the contractor as non-underwritten debt in accordance with [paragraph 2.9.5](#).

2.5.4 Procedure For Existing Debt At The Time Of Temporary Suspension

During the temporary suspension period and while the TED Record(s) Debt is in a "do-not process" status the contractor shall:

2.5.4.1 Upon receipt of notification of temporary suspension, cease all non-underwritten debt collection efforts.

2.5.4.2 Not bill for Other Health Insurance (OHI), transfer debt to DHA or conduct any additional claims processing.

2.5.4.3 Not update any TED Record(s). Any DHA-directed action to collect debt or correct claims processing errors, to include: Duplicate Claims System (DCS), OHI, Ineligibles, or beneficiary copay adjustments, Tax Levy, Payment offset, etc. (this is not an all-inclusive list), will be approved by DHA, PI prior to taking any action.

2.5.4.4 Forward all funds collected after receipt of the notice of temporary suspension from or on behalf of the suspended provider, pharmacy, or entity in accordance with [paragraph 2.5.7](#).

2.5.4.5 Comply with applicable reporting requirements related to Accounts Receivable by separately reporting Temporarily Suspended Fiscal Intermediary (FI) Receivable debt for each suspended provider, pharmacy, or entity by the following two categories:

- FI Receivable debt by temporarily suspended providers in a "do-not process" (do-not-pursue collection) status.
- FI Receivable debt related to temporarily suspended providers in a "process" (actively pursuing collection) status (see [paragraph 2.7](#)).

Continue to age and include temporarily suspended debt on the monthly FI Receivable report.

Note: Temporarily Suspended FI Receivable debt shall only relates to TED Record(s) data submitted on Vouchers. The TED Record(s) data submitted on Batches was not paid and therefore there is no associated debt. Details for reporting suspended A/R for temporarily suspended providers are identified in DD Form 1423, Contract Data Requirements List (CDRL), located in Section J of the applicable contract.

2.5.4.6 Regional contractors only: If underwritten debt existed prior to the notice of temporary suspension and the Government did not convert the debt to non-underwritten in accordance with paragraph 2.5.3, the contractor may continue to pursue its underwritten debt collection efforts against the suspended provider, pharmacy, entity, or client beneficiary. All unsolicited/voluntary refunds (underwritten and non-underwritten) shall be processed in accordance with paragraph 2.5.7.

2.5.4.7 Claims Processing and Payment Exceptions for paragraph 2.5.4

Contractor shall not bill for Other Health Insurance (OHI), transfer debt to DHA or conduct any additional claims processing unless:

2.5.4.7.1 Authorized by DHA, PI;

2.5.4.7.2 Authorized under paragraph 2.6; or

2.5.4.7.3 Authorized under paragraph 2.7; or

2.5.4.7.4 Authorized under paragraph 2.8.

2.5.5 Procedure For Processing Updates To Claims Received Prior To Temporary Suspension Notice

2.5.5.1 All proceeds received prior to the temporary suspension notice are applied to the suspended provider's TED Record(s) Debt in accordance with paragraph 2.6.

2.5.5.2 All proceeds received after the notice of temporary suspension are forwarded by EFT, check, or special endorsement to DHA, CRM in accordance with paragraph 2.5.7.

2.5.5.3 All updates (positive or negative), received after the notice of temporary suspension, to previously paid claims (claims received and paid prior to the notice of suspension) are held in suspense by the contractor. No TED Record(s) updates (Batch or Voucher) are done.

Note: TED Record updates received prior to the notice of temporary suspension pending submission to DHA shall be processed to completion and sent to DHA after receiving the notice of suspension. The contractor shall stop updates resulting in payments if possible.

2.5.6 Procedure For Processing New Claims Received After Temporary Suspension Notice

The contractor shall process all new claims submissions received after notice of temporary suspension of a provider, pharmacy, entity, or client beneficiary as an initial Batch TED Record then immediately place TED Record(s) in a "do-not process" status suspending the claim from further processing. The contractor shall not make payments to the provider, pharmacy, entity, or client beneficiary nor apply calculated payment amounts to the provider's, pharmacy's, or entity's TED

Record(s) debt for any claim processed as a Batch. To submit claims using the Batch process the contractor shall:

2.5.6.1 Cite Header Type Indicator **0** (Batch Header no claim rate) OR **9** (Batch Header claim rate eligible) as appropriate (TSM Data Element 0-001);

2.5.6.2 Cite Contract Line Item Number/Automated Standard Application for Payment (CLIN/ASAP) Account Number **00000000** (TSM Data Element 0-025);

2.5.6.3 Cite Adjustment Key **0** (TSM Data Element 1-035 or 2-035); and

2.5.6.4 Cite Override Code **NP** - Payment to provider, pharmacy, entity, or client beneficiary temporarily suspended at the direction of DHA, PI (TSM Data Elements 1-160 and 2-095).

2.5.6.4.1 Override Code **NP** is only used for new claims received after the notice of temporary suspension, processed as a Batch (informational TED Record(s)), and payment is being held in accordance with the notice of suspension.

2.5.6.4.2 Updates to claims paid prior to receiving the notice of temporary suspension are held in suspense (i.e., no TED Record(s) updates) in accordance with [paragraph 2.5.5](#). Do not cite Override Code = **NP** when submitting Vouchers.

2.5.7 Procedure For Processing Debt Payments And Unsolicited/Voluntary Refunds Received Temporary After Suspension Notice

All funds received from or on behalf of the temporarily suspended provider(s), pharmacy(s) or entity(s) for claims subject to the suspension are forwarded (by EFT, check or special endorsement) to DHA, CRM and are not applied as payment to the suspended provider's, pharmacy's, or entity's TED Record(s) Debt. All unsolicited/voluntary refunds (underwritten and non-underwritten) are forwarded to DHA, CRM. The funds are placed into a "Deposit Fund" in accordance with the Department of Defense (DoD) Financial Management Regulation (DoD 7000.14-R, Volume 12, Chapter 1, Paragraph 0108 & 010803) "Monies held by the U.S. Government awaiting distribution on the basis of a legal determination or investigation." For all funds received after the notice of suspension from or on behalf of the suspended provider, pharmacy, or entity, the contractor shall:

2.5.7.1 Forward checks payable to the contractor to DHA, CRM with the following Special Endorsement: "Pay to the order of US Treasury, ALC 97000012". The contractor shall endorse the checks. If the remittance is deposited by the contractor, the contractor shall remit the funds to DHA, CRM by check or EFT payable to US Treasury, ALC 97000012. Funds collected in accordance with [paragraph 2.6](#) are excepted.

2.5.7.2 Not deposit proceeds received after the notice of temporary suspension in its non-underwritten bank account.

2.5.7.3 Not create TED Record(s) updates for any funds transferred to DHA, CRM to be placed in a "Deposit Fund" on behalf of the temporarily suspended provider, pharmacy, or entity pending the outcome of the suspension investigation.

2.5.7.4 Advise the payer using special notification the funds received have been placed in a Government owned "Deposit Fund" (Addendum A, Figure 13.A-10).

2.6 TED Record(s) Processing Exceptions For Claims

The following TED Record(s) updates do not require approval from DHA, PI and TED Record(s) updates are processed in accordance with the TSM.

2.6.1 The contractor shall apply all collections received prior to the notice of temporary suspension to the provider's, pharmacy's, or entity's TED Record(s) debt with corresponding TED Record(s) updates.

2.6.2 The contractor shall, for any payment that is returned, becomes stale-dated, intercepted in accordance with paragraph 2.5.2, or is on a refund file (in the process of crediting back), process claims as follows:

2.6.2.1 NOT reissue payment (even if a request is received from the payee).

2.6.2.2 Submit the corresponding credit TED Record(s) reporting non-payment of claim in accordance with Chapter 3, Section 4.

2.6.2.3 Deposit the returned funds in the CLIN/ASAP Account originally used to make payment (if applicable). If the CLIN/ASAP Account originally used for payment is closed the contractor shall deposit funds into the current Fiscal Year (FY) CLIN/ASAP Account assigned for the same purpose.

2.6.2.4 Process TED Record(s) adjustments (Vouchers) to temporarily suspended providers as necessary to ensure the reported TED Record(s) payments (Amount Paid Government Contractor, TSM, Chapter 2, Section 2.4, Record Locator 1-140 or 2-205) equal actual amounts executed under the contract (payments excluding offsets). If the contractor is not sure a TED Record(s) update is needed or authorized for non-underwritten bank reconciliation or underwritten cost reimbursement purposes during the suspension period, contact DHA, CRM for resolution.

2.6.2.5 Process all TED Record(s) updates as required under Section H.10. ANNUAL UNDERWRITTEN UNALLOWABLE HEALTHCARE COST COMPLIANCE REVIEW Cost of Care audit requirements. This requirement applies to TED Record(s) data submitted under a Voucher header. TED Record(s) data submitted under a Batch header is excluded from audit as the Batch TED Records are informational records and no expenditure of Government funds occurred based upon the TED Record(s) (TSM, Chapter 2, Section 2.3).

2.7 Procedure For Partial Release Of Payments During Temporary Suspension

During the temporary suspension period (pending the completion of investigation, to include any ensuing legal or administrative proceedings) the Government will, at its discretion, instruct the contractor to move suspended provider, pharmacy, entity, and client beneficiary TED Record(s) from a "do-not process" status to a "process" status while retaining the suspension on all remaining and future claims received. The Government will move claims from a "do-not-process" status to a "process" status based upon date of receipt found embedded in the Internal Control Number (ICN) (TSM, Chapter 2, Section 2.5). Claims will be released using a date range on an oldest to newest basis. This action will release some or all TED Record(s) processed to-date under suspense for a specific provider, pharmacy,

entity, or client beneficiary; however, it does not change the providers', pharmacies', or entities' suspension status. The suspension remains in effect for all claims not covered by the "process" release and for all new claims received.

2.7.1 For all temporarily suspended provider claims set to a "process" status the contractor shall:

2.7.1.1 Process the claims to-date as a Voucher citing Special Processing Code (SPC) **NQ** - "PI Temporarily Suspended Provider, Pharmacy, Entity, or Client Beneficiary claim in 'PROCESS STATUS.'" Claim updates shall include, but are not limited to: Duplicate Claims System (DCS), OHI, Ineligibles, beneficiary copay adjustments, Cost of Care audit findings, Tax Levy, Payment offset, etc., occurring after the suspension date. All TED Records set to a "process" status while the provider, pharmacy, or entity remains suspended are submitted as non-underwritten vouchers, cite SPC **NQ** and remain non-underwritten for the life of the claim. SPC **NQ** is used for all claims submitted and adjusted as a Voucher and paid as non-underwritten during the temporary suspension release(s). SPC **NQ** allows DHA to identify all claims actually paid and collected during the temporary suspension waiver.

2.7.1.2 Cancel the corresponding Batch TED Record(s) citing Override Code **NP** - "Payment to Provider, Pharmacy, Client Beneficiary or Entity Temporarily Suspended at the Direction of DHA, PI." Do not cite Override Code = **NP** when submitting Vouchers.

Note: All TED Records set to a "process" status are submitted to DHA as non-underwritten Vouchers for the life of the claim.

2.7.2 For all debt associated with TED Records in a "process" status, the contractor shall follow the recoupment process as described in [Chapter 10, Section 4](#). All funds recovered for TED Records set to a "process" status are applied to the provider's, pharmacy's, or entity's TED Record(s) debt and are deposited by the contractor into the CLIN/ASAP Account originally used for payment. If the CLIN/ASAP Account originally used for payment is closed the contractor shall deposit funds into the current FY CLIN/ASAP Account assigned for the same purpose. The date Government notification was received to set the TED Record(s) to "process" and funds covered under the "process" order (if any) held by DHA, CRM in a "Deposit Fund" were returned to the contractor is the start date to initiate debt collection activities. The date of demand in accordance with 45 CFR § 30.11 is used as the new debt aging date and is the age-based date for potential transfer to DHA if the claim(s) remain uncollectable.

2.7.3 All amounts owed to the provider, pharmacy, or entity for TED Records set to a "process" status are first applied to the provider's, pharmacy's, or entity's active debt (debt related to TED Records set to a "process" status) and any remaining amounts owed are paid to the provider, pharmacy, entity, or client beneficiary.

2.7.4 The contractor shall deposit any funds applied to the provider's, pharmacy's, or entity's debt into its current FY non-underwritten bank account and submit a TED Record "cancellation" showing the reduction in amount paid to the provider, pharmacy, or entity. If the contractor is unable to submit a TED Record Cancellation or Adjustment, the contractor shall report the deposit(s) on the monthly Bank Reconciliation Report in accordance with [paragraph 2.9.5.5](#).

2.8 Procedure For Full Release Of Temporary Suspension

Upon notification from DHA PI that the provider, pharmacy or entity is no longer under suspension the contractor shall:

2.8.1 For all claims received after notification by DHA PI the temporary suspension has ended, receive specific guidance from DHA as to how to proceed.

2.8.2 If instructed by DHA, PI to process temporarily suspended TED Record(s) data, coordinate with DHA, CRM regarding the disposition of all pending adjustments and cancellations to TED Record(s) paid prior to the notice of suspension (in accordance with [paragraph 2.5.5](#)) that remain in a "do-not process" status at the time of suspension release. This coordination ensures the TED Record-based transactions submitted by the contractor are recorded and paid correctly by the DHA financial systems.

2.8.3 Receive specific instruction from DHA, CRM regarding the disposition of all funds held in "Deposit Fund."

2.8.4 The contractor shall reset the debt aging date to the date of temporary suspension release when directed by DHA. The date Government notification was received to release suspension of claims and the date funds (if any) held by DHA, CRM in a "Deposit Fund" were returned to the contractor is used as the start date to initiate debt collection activities. The date of demand in accordance with 45 CFR § 30.11 is used as the new debt aging date.

2.9 Other Instructions To The Contractor

2.9.1 On contracts where TED Record(s)-based administrative (also known as claim rate) payments are authorized, the contractor is authorized one administrative payment for each new TED Record required by Government direction (e.g., claims processed as a Batch and then changed to a "process" status or released from temporary suspension shall receive one administrative payment for creating the original Batch TED Record and a second administrative payment for creating the new Voucher TED Record).

2.9.2 All claims being held based upon the notice of temporary suspension are excluded from Section H audit requirements except, in accordance with [paragraph 2.6.2.5](#), the Section H.10 ANNUAL UNDERWRITTEN UNALLOWABLE HEALTHCARE COST COMPLIANCE REVIEW Cost of Care audit requirements.

2.9.3 The contractor shall not apply the identified patient responsibility (applicable cost-shares, copayments, deductibles) toward the catastrophic cap for claims that are not fully processed. The contractor shall apply the identified patient responsibility on claims fully processed prior to the temporary suspension notice (and not intercepted, [paragraph 2.5.2](#)) or fully processed in accordance with [paragraphs 2.6, 2.7, or 2.8](#).

2.9.4 At the end of the contract and for all providers, pharmacies, entities, or client beneficiaries that remain in temporary suspense, the contractor shall transfer all Batch and Voucher TED Record(s) data to the new contractor in accordance with [Chapter 2, Section 8](#). All additional materials being held in suspense related to the suspended Batch and Voucher TED Record(s) data is transferred to the new contractor's Program Integrity (or equivalent) office in accordance with [Chapter 2, Section 10, paragraph 1.0](#).

2.9.5 Debt Transferred To DHA And Returned To The Contractor

When a provider, pharmacy, or entity is under a temporary suspense order, all non-

underwritten debt collection efforts shall cease, to include collection efforts related to debt previously transferred to DHA that remains uncollected. Upon release of suspense or partial release of suspense (Process Status), any debt falling within the suspense release period and transferred to DHA will be transferred back to the contractor and the collection process shall start over. The contractor shall:

2.9.5.1 Reestablish the debt on its Accounts Receivable system within 30 days after receiving funds placed in "Deposit Fund" and debt information from the DHA, Office of General Counsel (OGC). Regional contractors: All debt returned to the contractor is non-underwritten debt.

2.9.5.2 Issue a demand letter within 30 days after the debt has been reestablished using the date of demand as the new debt aging date in accordance with 45 CFR § 30.11.

2.9.5.3 All interest and penalty timelines shall start over with the date of demand as the aging start date of debt.

2.9.5.4 If the debt remains uncollectable it is transferred back to the DHA, OGC in accordance with Chapter 10, Section 4 using the date of demand after the debt was transferred back as the aging start date.

2.9.5.5 Regional contractors only: Deposit all collections of converted debt into the current FY non-underwritten bank account assigned to them. Because TED Record(s) credit data submissions shall have already been sent to DHA for all underwritten debt converted to non-underwritten debt, the monthly deposits of converted debt will create an out-of-balance on the bank reconciliation report. The contractor shall separately report on its monthly bank reconciliation report (in summary) all collections for converted debt. Details for reporting are identified in DD Form 1423, CDRL, located in Section J of the applicable contract.

3.0 DHA AUTHORITY FOR EXCLUSIONS AND TERMINATIONS

3.1 DHA exclusion of any individual or entity is based upon 32 CFR 199.9(h) provisions.

3.2 Effective March 28, 2013, third party billing agents or entities became subject to TRICARE Program sanction authority.

3.3 The contractor shall provide written notice to DHA PI of any situation involving a TRICARE provider, pharmacy, or entity whose actions warrant exclusion under DHA authority.

3.4 The Director, DHA or designee, has the authority to exclude an authorized TRICARE provider, pharmacy, or entity. The period of exclusion is at the discretion of DHA. (See 32 CFR 199.9.)

3.5 DHA PI will coordinate and issue notification of exclusion action. DHA PI will send written notice of the proposed exclusion, and the potential effect thereof. The individual or entity may submit evidence and written argument regarding the proposed exclusion.

3.6 DHA PI has sole authority to issue an Initial Determination of Exclusion. Written notice of this decision will include the basis for the exclusion, the length of the exclusion, as well as the effect of the exclusion. The determination also outlines the earliest date on which DHA PI will consider a request for reinstatement, the requirements for reinstatement, and appeal rights available. DHA PI will notify appropriate agencies, to include contractors, of all DHA exclusion actions taken. DHA PI will initiate

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action based upon reversed or vacated decisions. Exclusion of a provider, pharmacy, or entity will be effective 15 days from the date of the Initial Determination.

3.7 The Director, DHA or designee has sole authority for approval of any request for reinstatement.

4.0 CONTRACTOR ACTIONS UNDER TRICARE EXCLUSION AUTHORITY - 32 CFR 199.9

4.1 When the contractor recommends exclusion to DHA PI of an authorized provider, pharmacy or entity, supporting documentation shall be submitted (e.g., provider, pharmacy, or entity poses unreasonable potential for fraud).

4.2 The contractor will be notified immediately of an exclusion action taken by DHA PI and shall:

- Ensure that no payment is made to an excluded provider, pharmacy, or entity for care provided on or after the date of the DHA action (15 days from the date of the Initial Determination as noted in paragraph 3.6). Neither the provider, pharmacy, entity, nor the client beneficiary is entitled to TRICARE cost-sharing once the exclusion is in effect. The contractor shall notify DHA PI if a provider, pharmacy, or entity attempts to bill the program after the effective date of exclusion. It is not necessary for the contractor to issue a separate letter notifying the provider, pharmacy, or entity of the exclusion action. However, notice of exclusion action taken by DHA shall be given to all Beneficiary Counseling and Assistance Coordinators (BCACs) and contractor employees that interface with beneficiaries located within the provider's service area (approximately 100 miles) of the practice address of the excluded provider. The contractor shall also notify the Director, TRICARE Regional Office (TRO) in the geographical area(s) of the provider's practice of action taken. TROs in the geographical area(s) of the provider's practice are also given notice of exclusion action taken. TRICARE Area Offices (TAOs) for the region in which the provider's practice is located are also given notice of exclusion action taken.
- Ensure that an excluded provider, pharmacy, or entity is not included in the network. If cancellation of a network provider, pharmacy, or entity agreement is required, the contractor shall ensure that the network provider, pharmacy, or entity whose contract has been cancelled clearly understands their status. This shall be accomplished by providing written notice, sent by certified mail, return receipt requested, stating the network agreement has been cancelled. The contractor shall send a copy to DHA PI.
- Issue a special notice to any client beneficiary who submits a claim or for whom a claim is submitted, which includes services involving an excluded provider, pharmacy, or entity. The notice may be enclosed with the EOB, whether the claim is payable or not, or sent as a separate letter.
- Ensure the enforcement of all exclusion action taken, and notify appropriate parties of the application of exclusions. For example, any claim received from an excluded third party billing agent is returned to the provider with instructions to resubmit the claim directly or through another third party billing agent. The provider remains entitled to reimbursement for covered services as long as they remain an authorized TRICARE provider.

5.0 DHHS/OIG APPLICATION OF SANCTION AUTHORITY

5.1 DHHS/OIG excludes individuals or entities from participation in any Federal health care program, to include the DoD Military Health System (MHS), based upon the authority and exclusion categories found on the DHHS/OIG web site.

5.2 DHHS/OIG has sole responsibility for issuing a written notice of its intent to exclude a provider, pharmacy, or entity, the basis for the exclusion, the effective date, the period of exclusion, and the potential effect of exclusion.

5.3 DHHS/OIG has sole authority for terminating an exclusion imposed under its authority. DHHS/OIG will handle notifications of approval/denial of a request for reinstatement and are responsible for reversing or vacating decisions.

5.4 DHHS/OIG exclusions and reinstatements are issued on a monthly basis. DHHS/OIG will provide DHA PI with immediate access to this information, which will then be forwarded to each contractor.

5.5 Exclusions taken by DHHS/OIG are binding on Medicare, Medicaid, and all Federal health care programs with the exception of the Federal Employee Health Benefit Program (FEHBP) (42 USC 1320a-7b(f)). No payment is made for any item or service furnished on or after the effective date of exclusion until an individual or entity is reinstated by DHHS/OIG, and subsequently meets the requirements under 32 CFR 199.6.

6.0 CONTRACTOR ACTIONS UNDER DHHS/OIG EXCLUSION AUTHORITY

6.1 The contractor will be provided the monthly issuance of DHHS/OIG exclusion and reinstatement actions.

6.2 The contractor shall ensure that no payment is made to an excluded provider, network pharmacy, or entity for care provided on or after the date of the DHHS/OIG action. Neither the provider, pharmacy, or entity, nor the client beneficiary are entitled to TRICARE cost-sharing once the exclusion is effective. The contractor shall notify DHA PI when a provider, network pharmacy, or entity attempts to bill the program or if payment has been issued after the effective date of exclusion. It is not necessary for the contractor to issue a separate letter notifying the provider, network pharmacy, or entity of the exclusion action.

6.3 The contractor shall ensure that an excluded provider, pharmacy, or entity is not included in the network. If cancellation of a network, or if applicable, participating provider agreement is required, the contractor shall ensure that the network provider or network pharmacy whose contract has been cancelled clearly understands their status. This shall be accomplished by providing written notice, sent by certified mail, return receipt requested, stating the network provider's or network pharmacy's agreement has been cancelled. The contractor shall send a copy to DHA PI.

7.0 CONTRACTOR APPLICATION OF SANCTION AUTHORITY

Contractors shall ensure the enforcement of all sanction actions taken, and notify appropriate parties of the application of sanctions. For example, any claim received from an excluded third party billing agent is returned to the provider with instructions to resubmit the claim directly or through another third party billing agent. The provider remains entitled to reimbursement for covered services

as long as they remain an authorized TRICARE provider.

8.0 PROVIDER, NETWORK PHARMACY, OR ENTITY TERMINATION OF AUTHORIZED PROVIDER STATUS

8.1 The contractor shall terminate the authorized provider status of any provider, network pharmacy, or entity determined not to meet program requirements. The request for reinstatement shall be processed under the procedures established for initial requests for authorized provider or network pharmacy status. See Section 6 for further information.

8.2 Other Listings

The contractor shall ensure receipt of the appropriate state medical board listings of actions affecting provider authorization status (e.g., Federation of State Medical Boards of the United States (U.S.)). A provider who has licenses to practice in two or more jurisdictions and has one or more licenses suspended or revoked shall be terminated as a TRICARE provider in all jurisdictions.

9.0 CONTRACTOR REQUIREMENTS FOR TERMINATION

When status as an authorized provider, authorized network pharmacy, or authorized entity is ended, the contractor shall initiate termination action based upon a finding that the provider, pharmacy, or entity does not meet the qualifications to be an authorized provider. Separate termination action by the contractor is not required for a provider, pharmacy, or entity sanctioned under the exclusion authority granted DHHS/OIG.

9.1 The period of termination will be indefinite and will end only after the provider, pharmacy, or entity has successfully met the established qualifications for authorized status under the TRICARE Program and has been reinstated as outlined in Section 6.

9.2 The Government will direct the contractor to notify the provider, pharmacy, or entity in writing of the proposed action to terminate their status as an authorized TRICARE provider when the provider, pharmacy, or entity fails to meet the requirements of 32 CFR 199.6 (Addendum A, Figure 13.A-8).

9.2.1 The notice will offer the provider, pharmacy, or entity an opportunity to respond within 30 days from the date of the notice. An extension to 60 days may be granted if a written request is received during the 30 days showing good cause. The provider, pharmacy, or entity may respond with either documentary evidence and written argument contesting the proposed action or a written request to present in person evidence or argument to DHA,PI. Expenses incurred by the provider, pharmacy, or entity are their responsibility.

9.2.2 Once the notice of proposed action to terminate is sent, the provider's claims are temporarily suspended from claims processing until an Initial Determination is issued. The provider, pharmacy, or entity is notified via the proposed notice that the claims are suspended from claims processing.

9.2.3 For pharmacy claims, once the notice of proposed action to terminate is sent, the pharmacy's claims are not processed as network claims until an Initial Determination is issued. The pharmacy is notified via the notice that the claims will not be processed as network claims.

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Beneficiaries are advised by the pharmacy that it is no longer a network pharmacy and that any prescription filled there requires submittal of a claim for reimbursement by the beneficiary.

9.2.4 If the provider being terminated is a Primary Care Manager (PCM), the contractor shall assist Prime enrollees with selecting a new PCM. The contractor shall ensure that the client beneficiary's medical records are transferred to the new PCM. Efforts shall be taken to notify non-TRICARE Prime client beneficiaries in a cost-effective manner.

9.3 Initial Determination

If after the provider, pharmacy, or entity has exhausted, or failed to comply with the procedures for appealing the proposed termination and the decision to terminate remains unchanged, the Government will invoke an administrative remedy of termination by directing the contractor to issue a written notice of the Initial Determination via certified mail. A copy of the Initial Determination is sent to DHA PI along with supporting documentation. The Initial Determination shall include:

- A Unique Identification Number (UIN) indicating the FY of the Initial Determination, a consecutive number within that FY and the contractor's name. A sample letter is found at Addendum A, Figure 13.A-9.
- A statement of the action being invoked and the effective date of the action. The effective date will be the date the provider, pharmacy, or entity no longer meets the regulatory requirements. If there is no documentation the provider ever met the requirements, the effective date will be either June 10, 1977 (the effective date of the Regulation) or the date on which the provider, pharmacy or entity was first approved, whichever date is later. In the case of a pharmacy, it is the date on which the pharmacy first became part of the network.
- A statement of the facts, circumstances, or actions that forms the basis for the termination and a discussion of any information submitted by the provider, pharmacy, or entity relevant to the termination.
- A statement of the provider's, pharmacy's, or entity's right to appeal.
- The requirements and procedures for reinstatement.

9.4 Providers Failing To Return Recertification Documentation

Upon notification from the Government the providers, pharmacies, or entities who failed to return recertification documentation, the contractor shall not terminate but shall place the providers, pharmacies, or entities on the "inactive" provider listing. Prior to notification the Government will first verify that the recertification package was mailed to the correct address and was not returned by the U.S. Postal Service (USPS). The contractor shall flag the provider's file to deny claims for services regardless of who submits the claim. The Government will notify the provider, pharmacy, or entity their TRICARE claims will be denied for failing to return their recertification documentation. Refer to Section 3 regarding development of possible fraud/abuse cases.

9.5 Requirement To Recoup Erroneous Payments

After the Initial Determination has been sent, the contractor shall initiate recoupment for any

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claims cost-shared, paid for services, or supplies furnished by the provider (or pharmacy for any previously paid claims for pharmaceuticals or supplies furnished by the pharmacy) or entity on or after the effective date of termination, even when the effective date is retroactive, unless a specified exception is provided by 32 CFR 199. This applies to claims processed by previous contractors as well. All monies paid by previous contractors and recouped by the current contractor shall be refunded to DHA, CRM. Refer to Chapter 3.

9.6 File Requirements For A Terminated Provider, Pharmacy, Or Entity

The Initial Determination file maintained by the Government only includes documentation that is releasable to the provider, pharmacy, or entity. This file also includes:

- Initial Determination of Termination Action as well as Proposed Notice to Terminate;
- Provider/pharmacy/entity certification file (i.e., the documentation upon which the original certification of the provider/pharmacy/entity was based) or network pharmacy agreement;
- All correspondence and documentation relating to the termination. Copies of the enclosures are attached to the copy of the original correspondence;
- Documentation that the contractor considered or relied upon in issuing the determination.

9.7 Special Action/Notice Requirements When An Institution Is Terminated

When a DHA determination is made that an institutional provider does not meet qualifications or standards to be an authorized TRICARE provider, the contractor shall take appropriate action.

9.7.1 Provider And Client Beneficiary Notification

The Government will:

- Instruct the institution by certified mail to immediately give written notice of the termination to any TRICARE client beneficiary (or beneficiary's parent, guardian, or other representative) admitted to or receiving care at the institution on or after the effective date of the termination.
- When the termination effective date is after the date of the initial determination, notify by certified mail any client beneficiary (or beneficiary's parent, guardian, or other representative) admitted prior to the date of the termination by certified mail that TRICARE cost-sharing ended as of the termination date. Advise the client beneficiary (or beneficiary's parent, guardian, or other representative) of the client beneficiary's financial liability. The contractor shall also use a fast, effective means of notice (e.g., phone, fax, express mail, or regular mail, depending on the circumstances.).
- If an institution is granted a grace period to effect correction of a minor violation, notify any client beneficiary (or beneficiary's parent, guardian, or other representative) admitted prior to the grace period of the violation that TRICARE cost-sharing of covered care continues during that period. (Cost-sharing continues through the last day of the month following the month in which the institution is terminated.)

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- In addition, notify any **client** beneficiary (or **beneficiary's** parent, guardian, or other representative) admitted prior to a grace period of the institution's corrective action, when such has been determined to have occurred, and the continuation of the institution as an authorized TRICARE provider.
- For a **client** beneficiary admitted during a grace period, cost-share only that care received after 12:01 a.m., on the day written notice of correction of a minor violation was received or the day corrective action was completed.

9.7.2 Cost-Sharing Actions

The contractor shall deny cost-sharing for any:

- New patient admitted after the effective date of the termination;
- Beneficiary admitted during a grace period granted an institution involved in a minor violation;
- Beneficiary already in an institution involved in a major violation beginning with the effective date of the termination.

9.7.3 The contractor shall cost-share covered care for those beneficiaries admitted prior to a grace period.

- END -