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DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 199

RIN 0720-AA27

# Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Provider Certification Requirements--Corporate Services Provider Class

AGENCY: Office of the Secretary, DoD.

ACTION: Final rule.

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SUMMARY: This final rule presents requirements to permit payment of professional or technical health care services rendered by certain corporate providers; makes changes to clarify the general requirements for individual professional providers; and adds standard provider participation agreement provisions when such agreements are otherwise required.

DATES: This rule is effective June 8, 1999.

ADDRESSES: TRICARE Management Activity, Medical Benefits and Reimbursement Systems, 16401 East Centretech Parkway, Aurora, CO 80011-9043.

FOR FURTHER INFORMATION CONTACT: David E. Bennett, TRICARE Management Activity, Medical Benefits and Reimbursement Systems, telephone (303) 676-3492.

SUPPLEMENTARY INFORMATION:

## I. Introduction and Background

CHAMPUS supplements the availability of health care in military hospitals and clinics. Services and items allowable as CHAMPUS benefits must be obtained from CHAMPUS authorized civilian providers to be considered for payment. Requirements for CHAMPUS provider authorization are published under 32 CFR 199.6.

CHAMPUS currently has requirements for three classes of providers. The institutional provider class includes hospitals and other categories of similar facilities. The individual professional providers class includes physicians and other categories of licensed individuals who render professional services independently, and certain allied health and extra medical providers that must function under physician orders and supervision. The third class of providers consists of sellers of items and supplies of an ancillary or supplemental nature such as durable medical equipment.

CHAMPUS payment depends upon a service being both allowable as a benefit and rendered by a CHAMPUS authorized provider. Consequently, it

is currently possible, for example, that outpatient treatment by a physical therapist employed by a hospital may be paid (to the hospital) while the same service provided by an employee of a freestanding corporation or foundation is denied payment.

This administrative exclusion is difficult for beneficiaries to apply when seeking health care services because it requires an understanding of the underlying business structure of the provider. But the underlying business structure of a provider organization is

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important to CHAMPUS management decisions regarding quality assurance and payment methods.

Corporations, both not-for-profit and shareholder, and foundations are an alternative source of ambulatory and in-home care. The proposed addition of the corporate class will recognize the current range of providers within today's health care delivery structure, and give beneficiaries access to another segment of the health care delivery industry.

II. Provisions of the Rule

A. New Provider Category (Revisions to Sec. 199.6(f)

This paragraph creates a fourth class of CHAMPUS provider consisting of freestanding corporations and foundations that render principally professional ambulatory or in-home care and technical diagnostic procedures. The intent of the rule is not to create additional benefits that ordinarily would not be covered under CHAMPUS is provided by a more traditional health care delivery system, but rather to allow those services which would otherwise be allowed except for an individual provider's affiliation with a freestanding corporate facility.

While is recognized that some of the services and supplies provided by freestanding corporate providers may substantially reduce costs in comparison to extended care provided in a hospital, it is often difficult to control the type and level of care actually provided within these alternative treatment settings. It is also recognized that some of the alternative delivery setting, such a Home Health Agencies and Comprehensive Outpatient Rehabilitation Facilities, provide services that are not a covered benefit under CHAMPUS. Often care rendered in these setting is provided by an individual who is not recognized by CHAMPUS as an authorized provider in his or her own right (i.g., home health aides in the case of home health care), and as such, is not covered under the provisions of this rule. Otherwise covered professional services provided by CHAMPUS authorized individual providers employed by or under contract with a freestanding corporate entity will be paid under the CHAMPUS Maximum Allowable Charge (CMAC) reimbursement system, subject to any restrictions and limitations as may be prescribed under existing CHAMPUS policy. The corporate entity will not be allowed additional facility charges that are not already incorporated into the professional service fee structure (i.e., facility charges that are not already included in the overhead and malpractice cost indices used in establishing locally-adjusted CMAC rates.)

Payment will also be allowed for supplies used by a CHAMPUS authorized individual provider employed by or contracted with a corporate services provider covered under the provisions of this rule in the direct treatment of a CHAMPUS eligible beneficiary. Payment for both professional services and supplies will be paid directly to the CHAMPUS authorized corporate service provider under its own tax identification number.

Coporate services providers must be approved for Medicare payment, or when Medicare approval status is not required, be accredited by a qualified accreditation organization as defined in 32 CFR 199.2 order

to gain provider authorization status under CHAMPUS. Corporate services providers must also enter into a participation agreement which will be sent out as part of the initial certification process. The participation agreement will ensure that CHAMPUS determined allowable payments, combined with the cost-share/copayment, deductible, and other health insurance amounts, will be accepted by the provider as payment in full.

B. Direct Payment for Occupational Therapist (Revisions to Sec. 199.4(3)(x)) and Sec. 199.6(c)(3)(iii)(1)(3)

The proposed rule, which was published on March 8, 1995 (60 FR 12717), allowed qualified self-employed occupational therapists to be authorized for direct payment for allowable services. However, the services has to be prescribed and monitored by a physician and reduce the disabling effects of an illness, injury, or neuromuscular disorder. The treatment also had to increase, stabilize, or slow the deterioration of the beneficiary's ability to perform specified purposeful activity within the range considered normal for human being. The provisions for occupational therapists were pulled from the proposed Corporate Services Provider Class rule and included as part of the Program from Persons with Disabilities (PFPWD) final rule was published in the Federal Register on June 30, 1997, (62 CFR 35086). (Public comments received in response to the occupational therapist provisions contained in the proposed rule were addressed and responded to the PFPWS final rule.

C. Provisions for Provider Participation (Revision of Definition of ``Participating Provider'' in Sec. 199.2, Clarification of Types of Provider Participation in Sec. 199.6(a)(8) and Additional Requirements for Participation Under Sec. 199.6(a)(12) and Sec. 199.6(a)(13))

The final amendment expands and clarifies the various types of provider participation available under CHAMPUS, emphasizing mandatory participation by the new Corporate Services Provider class. Corporate service providers must enter into a participation agreement that at least complies with the minimum participation agreement requirements as outlined under Sec. 199.6(a)(13). The amendment also establishes minimum medical documentation requirements for authorized provider organizations and individuals providing clinical services under CHAMPUS.

D. Removal of Exclusions (Removal of Sec. 199.4(g)(70) and Sec. 199.4(g)(71))

This amendment removes provision which exclude CHAMPS coverage of civilian diagnostic and consultation services requested by a Military Treatment Facility (MTF) physician in support of continued MTF care of a CHAMPUS-eligible beneficiary. Because MTF's vary in size and clinical capacity for the care of CHAMPUS-eligible beneficiaries, the lack of access to specialized diagnostic and consultation resources through CHAMPUS may result in the MTF purchasing the civilian services directly without the advantage of CHAMPUS price requirements; the beneficiary paying the total cost of such non-MTF services; or the beneficiary choosing to obtain all care in the civilian community in order to take advantage of CHAMPUS cost-share of all the necessary care. Removal of these exclusions will allow flexibility in the implementation of an MTF-based plan-of-care resulting in continuity of care at a lower cost to both the beneficiary and the government.

E. Professional Corporation or Association (Revision of Sec. 199.6(c)(1) and Sec. 199.6(c)(2))

The final rule more clearly establishes that a professional corporation or association is not itself a provider but may file claims

and receive payment on behalf of an individual professional provider member. The corporate entity is simply acting as a billing agent for its professional members (i.e., it is billing for its members' professional services under a single tax identification number) who are practicing within the scope of their individual state licenses,

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or have otherwise passed qualifying certification tests. The conditions for authorization have been expanded and rearranged to more clearly present the other general requirements for this provider category.

III. Public Comments

As a result of the publication of the proposed rule, the following comments were received from interested providers, associations, and agencies.

Comment 1. One commentor offered its corporate and clinical personnel to serve on any advisory boards which may be established to address credentialing concerns.

Response. Although we appreciate the commentor's offer to lend its expertise (i.e., both corporate and clinical staff) to any future advisory boards that might be convened on credentialing concerns, reliance on Medicare approval for payment--or when Medicare approved status is not required, accreditation by a qualified accreditation organization as defined by amendment--has been found to be administratively expeditious and cost effective for the program. As a result, we do not expect the need for convening any future advisory boards since the new provider categories will already be subject to nationally recognized certification criteria.

Comment 2. Several commentors had concerns on how the qualified accreditation organization defined in Sec. 199.2 would reinforce CHAMPUS authorization requirements and promote efficient delivery of CHAMPUS benefits. It was recommended that the final rule list the initial agencies and criteria for recognition.

Response. Specific references to accreditation agencies would negate the agency's authority to promptly recognize by administrative policy, rather than the much longer Code of Federal Register (CFR) amendment process, those newly recognized accreditation agencies or organizations which might come to meet the criteria set forth in this final rule. While it is anticipated that most, if not all, of the alternative treatment settings initially eligible for inclusion under this new provider category are authorized for payment under Medicare, there is a provision in the final rule (32 CFR 199.6(f)(2)(v)) which allows accreditation by a qualified accrediting organization as defined in the definition section of CFR (32 CFR 199.2) when Medicare approved status is not required. This definition provides specific criteria for recognition of qualified accreditation organizations under CHAMPUS.

Under the prescribed provisions set forth in this final rule, the corporate entity must be an authorized provider under CHAMPUS in order for payment of professional services to be authorized. For example, a corporate entity which is neither recognized by Medicare or any other accreditation organization as prescribed under the definition section of the CFR (32 CFR 199.2), coverage could not be extended for professional services even if the individual professional providers would have otherwise been eligible for payment except for their affiliation with the corporate entity. In other words, while the expanded provider category will allow coverage of professional services for corporate entities, meeting the conditions for authorization established under this rule, it will at the same time restrict coverage of professional services for those corporate entities which cannot meet those criteria for corporate services provider authorization under CHAMPUS.

Comment 3. One commentor recommended that comprehensive outpatient rehabilitation facilities (CORFs) be explicitly addressed in the final

rule as a type of corporate service provider so there is no misunderstanding in the future as to the ability of CORFs to provide services to CHAMPUS beneficiaries.

Response: The response to this comment is similar to the rationale used in the previous response as to why a list of qualified accreditation agencies or organizations are not specifically listed in the final rule. Again, a laundry list of qualifying corporate service providers would negate the agency's authority to promptly recognize by administrative policy, rather than having to go through the much longer rulemaking procedures for those corporate service providers who may in the future meet the criteria for authorization set down in this rule. For example, recognition of a new corporate services provider as an authorized provider under CHAMPUS would take three to six months through the administrative policy process (i.e., simply making changes to the program policy guidelines), compared to twelve to sixteen months through the formal rulemaking.

Comment 4. Another commentor felt that specific guidelines for the authorization process should be addressed in the final rule so that there is no misunderstanding by the providers or CHAMPUS contractors.

Response. It is felt that the incorporation of specific certification guidelines is unnecessary, since the authorization status of corporate services providers under CHAMPUS is already contingent on nationally recognized certification criteria (i.e., authorization/certification guidelines established by Medicare and other accrediting organizations as prescribed under the definition section of the CFR (32 CFR 199.2)). This would also impose an unnecessary administrative burden on the agency, since 32 CFR 199 would have to be continually updated to keep current with changes in national certification guidelines for this particular provider class.

Comment 5. One commentor wanted to know the conditions under which the Director, OCHAMPUS, or designee, may limit the term of a participation agreement for corporate services. It was recommended that limitations be explicit and known to the providers and CHAMPUS contractors.

Response. As was stated previously, corporate services providers must also enter into a participation agreement which will be sent out as part of the initial certification process. The participation agreement will ensure that CHAMPUS determined allowable payments, combined with the cost-share/copayment, deductible, and other health insurance amounts, will be accepted by the provider as payment in full. The agreement will be binding on the provider and OCHAMPUS upon acceptance by the Director, OCHAMPUS, or designee, and shall stay in effect until terminated by either party. The effective day of the participation will be the date the agreement is signed by the Director, OCHAMPUS, or designee.

The agreement may be terminated by either party giving the other party written notice of termination. Such notice of termination is to be received by the other party no later than 45 days prior of the date of termination. In the event of transfer of ownership, the agreement is assigned to the new owner, subject to the conditions specified in this agreement and pertinent regulations. The participation agreement will, at a minimum, contain all of the required provisions as outlined in this rule (32 CFR 199.6(a)(13)). Violation of one or more of these requirements will be ground for termination by the Director, OCHAMPUS, or designee.

Comment 6. Another commentor wants to know if the definition of a corporate services provider encompasses vocational rehabilitation facilities and other community based rehabilitation providers.

Response. The following conditions must be met in order for vocational rehabilitation and community based rehabilitation providers to meet the definition of corporate services provider

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as prescribed under the provisions of this rule: (1) that the corporate

entity be approved for Medicare payment, or when Medicare approval status is not required, be accredited by a qualified accreditation organization, as defined in 32 CFR 199.2; (2) that the services are covered program benefits rendered by CHAMPUS authorized individual providers as designated in 32 CFR 199.6 the corporate entity has entered into a participation agreement that at least complies with the minimum participation agreement requirements set forth in this final rule.

Comment 7. One commentor had concerns regarding the potential cost impact of provider expansion on the CHAMPUS program.

Response. Currently professional outpatient health care which could be supplied by corporate services providers (e.g., home health agencies and comprehensive outpatient rehabilitation facilities) is obtained through hospitals. CHAMPUS reimburses professional outpatient hospital services as billed if a specific procedure code is not identifiable on the institutional billing form. The same services received from corporate services providers are always paid under the CHAMPUS Maximum Allowable Charge (CMAC) reimbursement methodology. Under CMAC reimbursement is limited to the billed charge or CHAMPUS-determined allowable amount (in most cases the CMAC), whichever is less. The CMAC is generally less than the billed charge; therefore, with the addition of the proposed types of providers, CHAMPUS could potentially pay less for professional health services. At worst, the impact would be budget neutral, given the fact that professional services are paid in accordance with the CHAMPUS Maximum Allowable Charge regardless of whether the provider is authorized under the CHAMPUS regulatory definition for individual professional provider or under the corporate services provider class.

Comment 8. One commentor recommended that CHAMPUS recognize the Commission on Accreditation of Rehabilitation Facilities (CARF) accreditation for corporate services providers, since it is a nationally recognized accrediting body for inpatient, outpatient, vocational, behavioral, community based rehabilitation services and programs.

Response. Under the provisions promulgated in this rule, a corporate entity must maintain Medicare approval for payment if it is a category or type of provider that is substantially comparable to a provider or supplier for which Medicare has regulatory conditions of participation or coverage. However, if regulatory provisions for participation in the Medicare program are not available for a particular category of provider, accreditation by a qualified accreditation organization may be used in lieu of Medicare for conveying CHAMPUS provider authorization status. Recognition of the Commission on Accreditation of Rehabilitation Facilities (CARF) for accreditation of corporate services providers as a condition of authorization under CHAMPUS is contingent on its compliance with the qualifying criteria established under the definition of ``Qualified accreditation organization'' appearing in 32 CFR 199.2. In other words, if Medicare certifies a particular corporate services provider class, the providers' Medicare certification (approval for payment) must be used as a condition for authorization under CHAMPUS. If not, the accreditation of an accrediting organization that meets the qualifying criteria under the definition of ``Qualified accreditation organization'' appearing in 32 CFR 100.2 will have to be used.

Comment 9. A final commentor wanted to know if a CORF that was also a professional corporation or professional association would be eligible as an authorized corporate services provider.

Response. One of the conditions of authorization under the new provider class designation (i.e., to be authorized under CHAMPUS as a corporate services provider) is that the applicant be a freestanding corporation or foundation, but not a professional corporation or professional association.

IV. Regulatory Matters

Executive Order 12866 requires certain regulatory assessments for any ``significant regularly action'' defined as one that would result in an annual effect on the economy of $100 million or more, or have other substantial impacts.

The Regulatory Flexibility Act (RFA) requires that each Federal agency prepare, and make available for public comment are regulatory flexibility analysis when the agency issues a regulation which would have a significant impact on a substantial number of small entities.

Approximately 850 corporate or foundation physician groups and 4,500 freestanding Medicare certified in-home health care agencies will become eligible to apply for CHAMPUS provider status on the effective date of this rule. Since these changes are simply a competitive redistribution of ambulatory care benefit costs for already existing benefits, we certify that this final rule is not a major under Executive Order 12866, and will not have a significant economic impact on a substantial number of small entities under the criteria set forth in the Regulatory Flexibility Act.

Paperwork Reduction Act of 1995 (44 U.S.C. 3501-2511) requires all Departments to submit to the Office of Management and Budget (OMB) for review and approval any reporting or record keeping requirements in a proposed or final rule. The final rule will require information from the provider applicant to document that the criteria for CHAMPUS-provider status are met. The development of a corporate services provider application form has been accomplished along with an accompanying participation agreement. A notice for the proposed information collection appeared in the Federal Register on July 31, 1998 (63 FR 40882). The proposed information collection will be submitted to OMB concurrently with the publication of the final rule in the Federal Register.

Comments on these requirements should be submitted to the Office of Information and Regulatory Affairs, OMB, 725 17th Street, N.W., Washington, DC 20503, marked ``Attention Desk Officer for Department of Defense, Health Affairs.''

List of Subjects in 32 CFR Part 199

Claims, Health insurance, Individuals and disabilities, Military personnel, Reporting and recordkeeping requirements.

Accordingly, 32 CFR part 199 is 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 199.2(b) is amended by revising the definition for ``Participating provider,'' and by adding definitions for ``Corporate services provider,'' ``Economic interest,'' and ``Qualified accreditation organization '' in alphabetical order to read as follows:

Sec. 199.2 Definitions.

* * * * *

(b) * * *

Corporate services provider. A health care provider that meets the applicable requirements established by Sec. 199.6(f).

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Economic interest. (1) Any right, title, or share in the income, remuneration, payment, or profit of a CHAMPUS-authorized provider, or of an individual

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or entity eligible to be a CHAMPUS-authorized provider, resulting, directly or indirectly, from a referral relationship; or any direct or indirect ownership, right, title, or share, including a mortgage, deed of trust, note, or other obligation secured (in whole or in part) by one entity for another entity in a referral or accreditation relationship, which is equal to or exceeds 5 percent of the total property and assets of the other entity.

(2) A referral relationship exists when a CHAMPUS beneficiary is sent, directed, assigned or influenced to use a specific CHAMPUS-authorized provider, or a specific individual or entity eligible to be a CHAMPUS-authorized provider.

(3) An accreditation relationship exists when a CHAMPUS-authorized accreditation organization evaluates for accreditation an entity that is an applicant for, or recipient of CHAMPUS-authorized provider status.

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Participating provider. A CHAMPUS-authorized provider that is required, or has agreed by entering into a CHAMPUS participation agreement or by act of indicating ``accept assignment'' on the claim form, to accept the CHAMPUS-allowable amount as the maximum total charge for a service or item rendered to a CHAMPUS beneficiary, whether the amount is paid for fully by CHAMPUS or requires cost-sharing by the CHAMPUS beneficiary.

* * * * *

Qualified accreditation organization. A not-for-profit corporation or a foundation that:

(1) Develops process standards and outcome standards for health care delivery programs, or knowledge standards and skill standards for health care professional certification testing, using experts both from within and outside of the health care program area or individual specialty to which the standards are to be applied;

(2) Creates measurable criteria that demonstrate compliance with each standard;

(3) Publishes the organization's standards, criteria and evaluation processes so that they are available to the general public;

(4) Performs on-site evaluations of health care delivery programs, or provides testing of individuals, to measure the extent of compliance with each standard;

(5) Provides on-site evaluation or individual testing on a national or international basis;

(6) Provides to evaluated programs and tested individuals time-limited written certification of compliance with the organization's standards;

(7) Excludes certification of any program opera[illegible] organization which has an economic interest, as defi[illegible] section, in the accreditation organization or in which t[illegible] accreditation organization has an economic interest;

(8) Publishes promptly the certification outcomes of each [illegible] evaluation or individual test so that it is available to the ge[illegible] public; and

(9) Has been found by the Director, OCHAMPUS, or designee, to apply standards, criteria, and certification processes which reinforce CHAMPUS provider authorization requirements and promote efficient delivery of CHAMPUS benefits.

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Sec. 199.4 [Amended]

3. Section 199.4 is amended by removing and reserving paragraphs (g)(70) and (g)(71).

4. Section 199.6 is amended by revising paragraphs (a)(8), (c)(1), and (c)(2); adding paragraphs (a)(12) and (a)(13); removing paragraph

(b)(1)(iii); redesignating paragraphs (f) and (g) as paragraphs (a)(14) and (a)(15); and adding new paragraph (f) to read as follows:

Sec. 199.6 Authorized providers.

(a) * * *

(8) Participating providers. A CHAMPUS-authorized provider is a participating provider, as defined in Sec. 199.2 under the following circumstances:

(i) Mandatory participation. (A) All Medicare-participating hospitals must be CHAMPUS participating providers for all inpatient CHAMPUS claims.

(B) Hospitals that are not Medicare-participating but are subject to the CHAMPUS-DRG-based payment methodology or the CHAMPUS mental health payment methodology as established by Sec. 199.14(a), must enter into a participation agreement with CHAMPUS for all inpatient claims in order to be a CHAMPUS-authorized provider.

(C) Corporate services providers authorized as CHAMPUS providers under the provisions of paragraph (f) of this section must enter into a participation agreement as provided by the Director, OCHAMPUS, or designee.

(ii) Voluntary participation--(A) Total claims participation: The participating provider program. A CHAMPUS-authorized provider that is not required to participate by this part may become a participating provider by entering into an agreement or memorandum of understanding (MOU) with the Director, OCHAMPUS, or designee, which includes, but is not limited to, the provisions of paragraph (a)(13) of this section. The Director, OCHAMPUS, or designee, may include in a participating provider agreement/MOU provisions that establish between CHAMPUS and a class, category, type, or specific provider, uniform procedures and conditions which encourage provider participation while improving beneficiary access to benefits and contributing to CHAMPUS efficiency. Such provisions shall be otherwise allowed by this part or by DoD Directive or DoD Instruction specifically pertaining to CHAMPUS claims participation. Participating provider program provisions may be incorporated into an agreement/MOU to establish a specific CHAMPUS-provider relationship, such as a preferred provider arrangement.

(B) Claim-specific participation. A CHAMPUS-authorized provider that is not required to participate and that has not entered into a participation agreement pursuant to paragraph (a)(8)(ii)(A) of this section may elect to be a participating provider on a claim-by-claim basis by indicating ``accept assignment'' on each claim form for which participation is elected.

* * * * *

(12) Medical records. CHAMPUS-authorized provider organizations and individuals providing clinical services shall maintain adequate clinical records to substantiate that specific care was actually furnished, was medically necessary, and appropriate, and identify(ies) the individual(s) who provided the care. This applies whether the care is inpatient or outpatient. The minimum requirements for medical record documentation are set forth by all of the following:

(i) The cognizant state licensing authority;

(ii) The Joint Commission on Accreditation of Healthcare Organizations, or the appropriate Qualified Accreditation Organization as defined in Sec. 199.2;

(iii) Standards of practice established by national medical organizations; and

(iv) This part.

(13) Participation agreements. A participation agreement otherwise required by this part shall include, in part, all of the following provisions requiring that the provider shall:

(i) Not charge a beneficiary for the following:

(A) Services for which the provider is entitled to payment from CHAMPUS;

(B) Services for which the beneficiary would be entitled to have CHAMPUS

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payment made had the provider complied with certain procedural requirements.

(C) Services not medically necessary and appropriate for the clinical management of the presenting illness, injury, disorder or maternity;

(D) Services for which a beneficiary would be entitled to payment but for a reduction or denial in payment as a result of quality review; and

(E) Services rendered during a period in which the provider was not in compliance with one or more conditions of authorization;

(ii) Comply with the applicable provisions of this part and related CHAMPUS administrative policy;

(iii) Accept the CHAMPUS determined allowable payment combined with the cost-share, deductible, and other health insurance amounts payable by, or on behalf of, the beneficiary, as full payment for CHAMPUS allowed services;

(iv) Collect from the CHAMPUS beneficiary those amounts that the beneficiary has a liability to pay for the CHAMPUS deductible and cost-share;

(v) Permit access by the Director, OCHAMPUS, or designee, to the clinical record of any CHAMPUS beneficiary, to the financial and organizational records of the provider, and to reports of evaluations and inspections conducted by state, private agencies or organizations;

(vi) Provide the Director, OCHAMPUS, or designee, prompt written notification of the provider's employment of an individual who, at any time during the twelve months preceding such employment, was employed in a managerial, accounting, auditing, or similar capacity by an agency or organization which is responsible, directly or indirectly for decisions regarding Department of Defense payments to the provider;

(vii) Cooperate fully with a designated utilization and clinical quality management organization which has a contract with the Department of Defense for the geographic area in which the provider renders services;

(viii) Obtain written authorization before rendering designated services or items for which CHAMPUS cost-share may be expected;

(ix) Maintain clinical and other records related to individuals for whom CHAMPUS payment was made for services rendered by the provider, or otherwise under arrangement, for a period of 60 months from the date of service;

(x) Maintain contemporaneous clinical records that substantiate the clinical rationale for each course of treatment, periodic evaluation of the efficacy of treatment, and the outcome at completion or discontinuation of treatment;

(xi) Refer CHAMPUS beneficiaries only to providers with which the referring provider does not have an economic interest, as defined in Sec. 199.2; and

(xii) Limit services furnished under arrangement to those for which receipt of payment by the CHAMPUS authorized provider discharges the payment liability of the beneficiary.

* * * * *

(c) Individual professional providers of care--(1) General--(i) Purpose. This individual professional provider class is established to accommodate individuals who are recognized by 10 U.S.C. 1079(a) as authorized to assess or diagnose illness, injury, or bodily malfunction as a prerequisite for CHAMPUS cost-share of otherwise allowable related preventive or treatment services or supplies, and to accommodate such other qualified individuals who the Director, OCHAMPUS, or designee, may authorize to render otherwise allowable services essential to the efficient implementation of a plan-of-care established and managed by a 10 U.S.C. 1079(a) authorized professional.

(ii) Professional corporation affiliation or association membership permitted. Paragraph (c) of this section applies to those individual health care professionals who have formed a professional corporation or association pursuant to applicable state laws. Such a professional corporation or association may file claims on behalf of a CHAMPUS-authorized individual professional provider and be the payee for any payment resulting from such claims when the CHAMPUS-authorized individual certifies to the Director, OCHAMPUS, or designee, in writing that the professional corporation or association is acting on the authorized individual's behalf.

(iii) Scope of practice limitation. For CHAMPUS cost-sharing to be authorized, otherwise allowable services provided by a CHAMPUS-authorized individual professional provider shall be within the scope of the individual's license as regulated by the applicable state practice act of the state where the individual rendered the service to the CHAMPUS beneficiary or shall be within the scope of the test which was the basis for the individual's qualifying certification.

(iv) Employee status exclusion. An individual employed directly, or indirectly by contract, by an individual or entity to render professional services otherwise allowable by this part is excluded from provider status as established by this paragraph (c) for the duration of each employment.

(v) Training status exclusion. Individual health care professionals who are allowed to render health care services only under direct and ongoing supervision as training to be credited towards earning a clinical academic degree or other clinical credential required for the individual to practice independently are excluded from provider status as established by this paragraph (c) for the duration of such training.

(2) Conditions of authorization--(i) Professional license requirement. The individual must be currently licensed to render professional health care services in each state in which the individual renders services to CHAMPUS beneficiaries. Such license is required when a specific state provides, but does not require, license for a specific category of individual professional provider. The license must be at full clinical practice level to meet this requirement. A temporary license at the full clinical practice level is acceptable.

(ii) Professional certification requirement. When a state does not license a specific category of individual professional, certification by a Qualified Accreditation Organization, as defined in Sec. 199.2, is required. Certification must be at full clinical practice level. A temporary certification at the full clinical practice level is acceptable.

(iii) Education, training and experience requirement. The Director, OCHAMPUS, or designee, may establish for each category or type of provider allowed by this paragraph (c) specific education, training, and experience requirements as necessary to promote the delivery of services by fully qualified individuals.

(iv) Physician referral and supervision. When physician referral and supervision is a prerequisite for CHAMPUS cost-sharing of the services of a provider authorized under this paragraph (c), such referral and supervision means that the physicians must actually see the patient to evaluate and diagnose the condition to be treated prior to referring the beneficiary to another provider and that the referring physician provides ongoing oversight of the course of referral related treatment throughout the period during which the beneficiary is being treated in response to the referral. Written contemporaneous documentation of the referring physician's basis for referral and ongoing communication between the referring and treating provider regarding the oversight of the treatment

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rendered as a result of the referral must meet all requirements for medical records established by this part. Referring physician supervision does not require physical location on the premises of the

treating provider or at the site of treatment.
* * * * *
(f) Corporate services providers.--(1) General. (i) This corporate services provider class is established to accommodate individuals who would meet the criteria for status as a CHAMPUS authorized individual professional provider as established by paragraph (c) of this section but for the fact that they are employed directly or contractually by a corporation or foundation that provides principally professional services which are within the scope of the CHAMPUS benefit.
(ii) Payment for otherwise allowable services may be made to a CHAMPUS-authorized corporate services provider subject to the applicable requirements, exclusions and limitations of this part.
(iii) The Director, OCHAMPUS, or designee, may create discrete types within any allowable category of provider established by this paragraph (f) to improve the efficiency of CHAMPUS management.
(iv) The Director, OCHAMPUS, or designee, may require, as a condition of authorization, that a specific category or type of provider established by this paragraph (f):
(A) Maintain certain accreditation in addition to or in lieu of the requirement of paragraph (f)(2)(v) of this section;
(B) Cooperate fully with a designated utilization and clinical quality management organization which has a contract with the Department of Defense for the geographic area in which the provider does business;
(C) Render services for which direct or indirect payment is expected to be made by CHAMPUS only after obtaining CHAMPUS written authorization; and
(D) Maintain Medicare approval for payment when the Director, OCHAMPUS, or designee, determines that a category, or type, of provider established by this paragraph (f) is substantially comparable to a provider or supplier for which Medicare has regulatory conditions of participation or conditions of coverage.
(v) Otherwise allowable services may be rendered at the authorized corporate services provider's place of business, or in the beneficiary's home under such circumstances as the Director, OCHAMPUS, or designee, determines to be necessary for the efficient delivery of such in-home services.
(vi) The Director, OCHAMPUS, or designee, may limit the term of a participation agreement for any category or type of provider established by this paragraph (f).
(vii) Corporate services providers shall be assigned to only one of the following allowable categories based upon the predominate type of procedure rendered by the organization;
(A) Medical treatment procedures;
(B) Surgical treatment procedures;
(C) Maternity management procedures;
(D) Rehabilitation and/or habilitation procedures; or
(E) Diagnostic technical procedures.
(viii) The Director, OCHAMPUS, or designee, shall determine the appropriate procedural category of a qualified organization and may change the category based upon the provider's CHAMPUS claim characteristics. The category determination of the Director, OCHAMPUS, designee, is conclusive and may not be appealed.
(2) Conditions of authorization. An applicant must meet the following conditions to be eligible for authorization as a CHAMPUS corporate services provider:
(i) Be a corporation or a foundation, but not a professional corporation or professional association; and
(ii) Be institution-affiliated or freestanding as defined in Sec. 199.2; and
(iii) Provide:
(A) Services and related supplies of a type rendered by CHAMPUS individual professional providers or diagnostic technical services and related supplies of a type which requires direct patient contact and a technologist who is licensed by the state in which the procedure is

rendered or who is certified by a Qualified Accreditation Organization as defined in Sec. 199.2; and

(B) A level of care which does not necessitate that the beneficiary be provided with on-site sleeping accommodations and food in conjunction with the delivery of services; and

(iv) Complies with all applicable organizational and individual licensing or certification requirements that are extant in the state, county, municipality, or other political jurisdiction in which the provider renders services; and

(v) Be approved for Medicare payment when determined to be substantially comparable under the provisions of paragraph (f)(1)(iv)(D) of this section or, when Medicare approved status is not required, be accredited by a qualified accreditation organization, as defined in Sec. 199.2; and

(vi) Has entered into a participation agreement approved by the Director, OCHAMPUS, or designee, which at least complies with the minimum participation agreement requirements of this section.

(3) Transfer of participation agreement. In order to provide continuity of care for beneficiaries when there is a change of provider ownership, the provider agreement is automatically assigned to the new owner, subject to all the terms and conditions under which the original agreement was made.

(i) The merger of the provider corporation or foundation into another corporation or foundation, or the consolidation of two or more corporations or foundations resulting in the creation of a new corporation or foundation, constitutes a change of ownership.

(ii) Transfer of corporate stock or the merger of another corporation or foundation into the provider corporation or foundation does not constitute change of ownership.

(iii) The surviving corporation or foundation shall notify the Director, OCHAMPUS, or designee, in writing of the change of ownership promptly after the effective date of the transfer or change in ownership.

(4) Pricing and payment methodology: The pricing and payment of procedures rendered by a provider authorized under this paragraph (f) shall be limited to those methods for pricing and payment allowed by this part which the Director, OCHAMPUS, or designee, determines contribute to the efficient management of CHAMPUS.

(5) Termination of participation agreement. A provider may terminate a participation agreement upon 45 days written notice to the Director, OCHAMPUS, or designee, and to the public.

Dated: February 26, 1999.

L.M. Bynum,

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

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