SEC. ___. PARITY IN PROVISION OF INPATIENT MENTAL HEALTH SERVICES WITH OTHER INPATIENT MEDICAL SERVICES.

(a) ELIMINATION OF INPATIENT DAY LIMITS IN PROVISION OF MENTAL HEALTH SERVICES.—Section 1079 of title 10, United States Code, is amended—

(1) by striking paragraph (6) of subsection (a); and

(2) by striking subsection (i).

(b) WAIVER OF NONAVAILBILITY STATEMENT FOR MENTAL HEALTH SERVICES.—Section 721(a) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106-398; 10 U.S.C. 1073 note) is amended by striking "(other than mental health services)".

Section-by-Section Analysis

This proposal would amend section 1079 of title 10, United States Code, removing specific quantitative limits on inpatient mental health and substance use disorder benefits that are no longer required and may be viewed as barriers to medically necessary and appropriate mental health services. This change furthers the principle of mental health parity, consistent with the Mental Health Parity Act of 1996 (P.L. 104-204) and the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (P.L. 110-343). This proposal more closely aligns TRICARE's inpatient mental health benefit with TRICARE's inpatient medical/surgical benefit.

Currently, the day limits associated with inpatient mental health services and related waiver criteria that must be met to receive care beyond the limits may be viewed as presenting more stringent quantitative limitations, or barriers, to mental health care that do not exist for medical and surgical care. In addition, authority for the separate payment requirements (including deductibles, copayments, and catastrophic limits) for the provision of mental health services and preadmission authorization for non-emergency inpatient mental health services may also be viewed as imposing financial and non-quantitative treatment limitations that are inconsistent with the provision of mental health parity.

Paragraph (6) of subsection (a) was originally enacted to address the problem of spiraling costs for mental health services and created presumptive limits, subject to waiver in special cases. The TRICARE program has matured significantly since the enactment of the cost-saving provisions. TRICARE now has a variety of utilization management and continuing review tools to manage care, ensure quality, and control costs for medically or psychologically necessary and

appropriate care, whether medical/surgical or mental health and substance use care, obviating the need for these provisions. Eliminating these rigid statutory requirements will provide the Department of Defense with additional flexibility to appropriately manage care and impose processes, evidentiary standards and other factors for mental health and substance use disorders that are comparable to those applicable for medical/surgical benefits. By eliminating these statutory requirements, imposing limitations that treat mental health and substance use disorder treatment differently than medical and surgical care, this proposal will further de-stigmatize mental health treatment and hopefully provide a greater incentive for beneficiaries to seek the care they need.

The proposal also removes the special authority for nonavailability statements for inpatient mental health care that does not exist for medical/surgical care under section 721(a) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001. That section generally eliminated the prior TRICARE Standard program rule that required beneficiaries to use nearby facilities of the uniformed services for inpatient care if it was available, but preserved authority to require nonavailability statements for inpatient mental health care. The Department has eliminated the requirement for TRICARE Standard beneficiaries to obtain a non-availability statement for non-emergency inpatient mental health care following an evaluation of the effectiveness of such statements in optimizing the use of facilities of the uniformed services. Thus, there is parity in actual TRICARE coverage in this regard; this proposal would bring parity to the relevant statutory provisions as well.

Budget Implications:

By eliminating the limits on inpatient mental health stays and the limits on Residential Treatment Center (RTC) stays, lengths of stay for some TRICARE beneficiaries will increase and the government payments will also increase. Assuming an implementation date of October 1, 2014, the estimated cost increases are as follows:

RESOURCE REQUIREMENTS ($ MILLIONS)									
	FY 2015	**FY 2016**	**FY 2017**	**FY 2018**	**FY 2019**	**Appropriation From**	**Budget Activity**	**Dash-1 Line Item**	**Program Element**
Defense Health Program (DHP)	$1.4	$1.4	$1.5	$1.6	$1.7	DHP O&M	01	02	

COST METHODOLOGY						
	FY15	**FY16**	**FY17**	**FY18**	**FY19**	**FY15-19**
Utilization Trend	1.02	1.02	1.02	1.02	1.02	
Additional Days	1,901	1,939	1,978	2,017	2,058	
Price Trend	1.03	1.03	1.03	1.03	1.03	
Cost/Day	$713	$734	$756	$779	$802	
Additional Costs	$1,355,413	$1,423,226	$1,495,368	$1,571,243	$1,650,516	$7,495,766

Cost Methodology:

The cost impact of eliminating the length of stay limits on inpatient psychiatric stays and for RTC stays is $7.5 million over five years. We estimate that eliminating the limits will increase lengths of stay for some inpatient stays at psychiatric hospitals and RTCs. Based on the FY13 patterns of care, we project that in FY15, the number of inpatient psychiatric hospital days would increase by 636 per year and that the number of RTC days would increase by 1,265 per year, for a total increase of 1,901 days per year. We assumed that the number of days would increase by 2 percent per year (the utilization trend). The cost per day in FY15 is assumed to be $713, which is a 3 percent per year increase from the average cost per day of $672 per day in FY13. We assume the cost per day will increase by 3 percent per year. The product of the additional days and the cost per day equals the additional costs.

Changes to Existing Law: This proposal would make the following changes to section 1079 of title 10, United States Code, and section 721(a) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106-398; 10 U.S.C. 1073 note):

§ 1079. Contracts for medical care for spouses and children: plans

(a) To assure that medical care is available for dependents, as described in subparagraphs (A), (D), and (I) of section 1072(2) of this title, of members of the uniformed services who are on active duty for a period of more than 30 days, the Secretary of Defense, after consulting with the other administering Secretaries, shall contract, under the authority of this section, for medical care for those persons under such insurance, medical service, or health plans as he considers appropriate. The types of health care authorized under this section shall be the same as those provided under section 1076 of this title, except as follows:

(1) ***

* * * * * * *

(6) ~~Inpatient mental health services may not (except as provided in subsection (i)) be provided to a patient in excess of--~~

~~(A) 30 days in any year, in the case of a patient 19 years of age or older;~~

~~(B) 45 days in any year, in the case of a patient under 19 years of age; or~~

~~(C) 150 days in any year, in the case of inpatient mental health services provided as residential treatment care.~~

(7) Services in connection with nonemergency inpatient hospital care may not be provided if such services are available at a facility of the uniformed services located within a 40-mile radius of the residence of the patient, except that those services may be provided in any case in which another insurance plan or program provides primary coverage for those services.

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~~(i) (1) The limitation in subsection (a)(6) does not apply in the case of inpatient mental health services—~~

~~(A) provided under the program for the handicapped under subsection (d);~~

~~(B) provided as partial hospital care; or~~

~~(C) provided pursuant to a waiver authorized by the Secretary of Defense because of medical or psychological circumstances of the patient that are confirmed by a health professional who is not a Federal employee after a review, pursuant to rules prescribed by the Secretary, which takes into account the appropriate level of care for the patient, the intensity of services required by the patient, and the availability of that care.~~

~~(2) Notwithstanding subsection (b) or section 1086(b) of this title, the Secretary of Defense (after consulting with the other administering Secretaries) may prescribe separate payment requirements (including deductibles, copayments, and catastrophic limits) for the provision of mental health services to persons covered by this section or section 1086 of this title. The payment requirements may vary for different categories of covered beneficiaries, by type of mental health service provided, and based on the location of the covered beneficiaries.~~

~~(3)(A) Except as provided in subparagraph (B), the Secretary of Defense shall require preadmission authorization before inpatient mental health services may be provided to persons covered by this section or section 1086 of this title. In the case of the provision of emergency inpatient mental health services, approval for the continuation of such services shall be required within 72 hours after admission.~~

~~(B) Preadmission authorization for inpatient mental health services is not required under subparagraph (A) in the following cases:~~

~~(i) In the case of an emergency.~~

~~(ii) In a case in which any benefits are payable for such services under part A of title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.), subject to subparagraph (C).~~

~~(C) In a case of inpatient mental health services to which subparagraph (B)(ii) applies, the Secretary shall require advance authorization for a continuation of the provision of such services after benefits cease to be payable for such services under such part A.~~

SEC. 721. IMPROVEMENT OF ACCESS TO HEALTH CARE UNDER THE TRICARE PROGRAM.

(a) WAIVER OF NONAVAILABILITY STATEMENT OR PREAUTHORIZATION.—In the case of a covered beneficiary under TRICARE Standard pursuant to chapter 55 of title 10, United States Code, the Secretary of Defense may not require with regard to authorized health care services ~~(other than mental health services)~~ under such chapter that the beneficiary—

(1) obtain a nonavailability statement or preauthorization from a military medical treatment facility in order to receive the services from a civilian provider; or

(2) obtain a nonavailability statement for care in specialized treatment facilities outside the 200-mile radius of a military medical treatment facility.

(b) WAIVER AUTHORITY.—The Secretary may waive the prohibition in subsection (a) if—

(1) the Secretary—

(A) demonstrates that significant costs would be avoided by performing specific procedures at the affected military medical treatment facility or facilities;

(B) determines that a specific procedure must be provided at the affected military medical treatment facility or facilities to ensure the proficiency levels of the practitioners at the facility or facilities; or

(C) determines that the lack of nonavailability statement data would significantly interfere with TRICARE contract administration;

(2) the Secretary provides notification of the Secretary's intent to grant a waiver under this subsection to covered beneficiaries who receive care at the military medical treatment facility or facilities that will be affected by the decision to grant a waiver under this subsection;

(3) the Secretary notifies the Committees on Armed Services of the House of Representatives and the Senate of the Secretary's intent to grant a waiver under this subsection, the reason for the waiver, and the date that a nonavailability statement will be required; and

(4) 60 days have elapsed since the date of the notification described in paragraph (3).

(c) WAIVER EXCEPTION FOR MATERNITY CARE.—Subsection (b) shall not apply with respect to maternity care.

(d) EFFECTIVE DATE.—This section shall take effect on the earlier of the following:

(1) The date that a new contract entered into by the Secretary to provide health care services under TRICARE Standard takes effect.

(2) The date that is two years after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2002 [Dec. 28, 2001].”.