SEC. 702. REVISIONS TO COST-SHARING REQUIREMENTS FOR TRICARE FOR LIFE AND THE PHARMACY BENEFITS PROGRAM

(a) TRICARE FOR LIFE ENROLLMENT FEE.—

(1) ANNUAL ENROLLMENT FEE FOR CERTAIN BENEFICIARIES.—Section 1086(d)(3) of title 10, United States Code, is amended—

(A) by redesignating subparagraph (C) as subparagraph (D); and

(B) by inserting after subparagraph (B) the following new subparagraph (C):

"(C)(i) A person described in paragraph (2) (except as provided in clauses (vi) and (vii)) shall be required to pay an annual enrollment fee as a condition of eligibility for health care benefits under this section. Such enrollment fee shall be an amount (rounded to the nearest dollar) equal to the applicable percentage (specified in clause (ii)) of the annual retired pay of the member or former member upon whom the covered beneficiary's eligibility is based, except that the amount of such enrollment fee shall not be in excess of the applicable maximum enrollment fee (specified in clause (iii)). In the case of enrollment for a period less than a full calendar year, the enrollment fee shall be a pro-rated amount of the full-year enrollment fee.

"(ii) The applicable percentage of retired pay shall be determined in accordance with the following table:

For:	The applicable percentage for a family group of two or more persons is:	The applicable percentage for an individual is:
2016	0.50%	0.25%
2017	1.00%	0.50%
2018	1.50%	0.75%
2019 and after	2.00%	1.00%

"(iii) For any year 2016 through 2019, the applicable maximum enrollment fee for a family group of two or more persons shall be determined in accordance with the following table:

For:	The applicable maximum enrollment fee for a family group whose eligibility is based upon a member or former member of retired grade O-7 or above is:	The applicable maximum enrollment fee for a family group whose eligibility is based upon a member or former member of retired grade O-6 or below is:
2016	$200	$150
2017	$400	$300
2018	$600	$450
2019	$800	$600

"(iv) For any year after 2019, the applicable maximum enrollment fee shall be equal to the maximum enrollment fee for the previous year increased by the percentage by which retired pay is increased under section 1401a(b)(2) of this title for such year.

"(v) The applicable maximum enrollment fee for an individual shall be one-half the corresponding maximum fee for a family group of two or more persons (as determined under clauses (iii) and (iv)).

"(vi) Clause (i) does not apply to—

"(I) a dependent of a member of the uniformed services who dies while on active duty;

"(II) a member retired under chapter 61 of this title; or

"(III) a dependent of such a member.

"(vii) Clause (i) does not apply to a person who, before January 1, 2016, met the conditions described in paragraphs (2)(A) and (B).".

(2) EFFECTIVE DATE.—Subparagraph (C) of section 1086(d)(3) of title 10, United States Code, as added by paragraph (1), shall take effect on January 1, 2016.

(b) TRICARE PHARMACY PROGRAM COST-SHARING AMOUNTS.—Paragraph (6) of section 1074g(a) of such title is amended to read as follows:

"(6)(A) In the case of any of the calendar years 2016 through 2024 the cost sharing referred to in paragraph (5) shall be payment by an eligible covered beneficiary of amounts determined in accordance with the following table:

For:	The cost sharing amount for 30-day supply of a retail generic is:	The cost sharing amount for 30-day supply of a retail formulary is:	The cost sharing amount for a 90-day supply of a mail order generic is:	The cost sharing amount for a 90-day supply of a mail order formulary is:	The cost amount for a 90-day supply of a mail order non-formulary is:
2016	$8	$28	$0	$28	$54
2017	$8	$30	$0	$30	$58
2018	$8	$32	$0	$32	$62
2019	$9	$34	$9	$34	$66
2020	$10	$36	$10	$36	$70
2021	$11	$38	$11	$38	$75
2022	$12	$40	$12	$40	$80
2023	$13	$43	$13	$43	$85
2024	$14	$45	$14	$45	$90

"(B) For any year after 2024, the cost sharing referred to in paragraph (5) shall be payment by an eligible covered beneficiary of amounts equal to the cost-sharing amounts for the previous year, adjusted by an amount, if any, as determined by the Secretary to reflect changes in the costs of pharmaceutical agents and prescription dispensing, rounded to the nearest dollar.

"(C) Notwithstanding subparagraphs (A) and (B), the cost-sharing amounts referred to in paragraph (5) for any year after 2015 shall be the cost-sharing amounts, if any, under this section as of January 1, 2015, in the case of—

"(i) a dependent of a member of the uniformed services who dies while on active duty;

"(ii) a member retired under chapter 61 of this title; or

"(iii) a dependent of such a member.".

(c) AUTHORITY TO ADJUST PAYMENTS INTO THE MEDICARE-ELIGIBLE RETIREE HEALTH CARE FUND.—Section 1116 of such title is amended—

(1) in subsection (a)(1), by striking "subsection (c), which" and inserting "subsection (c)(1), which (together with any amount paid into the Fund under subsection (c)(4))"; and

(2) in subsection (c)—

(A) by striking "The Secretary" and inserting "(1) Except as provided in paragraph (2), the Secretary"; and

(B) by adding at the end the following new paragraphs:

"(2) If for any fiscal year the Secretary of Defense determines at the beginning of that fiscal year that the amount that would otherwise be required to be certified under paragraph (1) for that fiscal year would not be accurate if there were to be enacted during the current session of Congress a significant change in law requested in the Budget of the President for that fiscal year that upon enactment would reduce the amount otherwise required to be certified under paragraph (1) for that fiscal year**,** the Secretary may certify to the Secretary of the Treasury under paragraph (1) a reduced amount for that fiscal year taking into consideration the amount of the reduction for that fiscal year that would occur upon enactment of such change in law.

"(3) Not later than 120 days after the beginning of a fiscal year for which a certification under paragraph (1) is submitted pursuant to paragraph (2), the Secretary of Defense—

"(A) shall notify the Secretary of the Treasury whether since the beginning of the fiscal year a significant change in law has been enacted which if in effect at the beginning

of the fiscal year would have resulted in a revised amount certified under paragraph (1) without regard to paragraph (2); and

"(B) based upon any such change in law since the beginning of the fiscal year, shall certify a final amount for the fiscal year.

"(4) If a final amount certified under paragraph (3) for any fiscal year is greater than the amount certified pursuant to paragraph (2) for that fiscal year, the Secretary of the Treasury shall promptly pay into the Fund from the General Fund of the Treasury the difference between those amounts.".

Section-by-Section Analysis

This proposal would make changes to TRICARE cost sharing relating to the TRICARE for Life and Pharmacy Benefits Program to address the explosion in health care costs and make the health benefit sustainable. The Defense Health Budget has grown from $15.4 billion in fiscal year (FY) 1996 to over $48 billion in FY 2015. During this period, TRICARE cost sharing requirements have changed very little, contributing substantially to the cost explosion. Without adjustments to the cost sharing structure, the cost of the Military Health System will continue to crowd out more and more programs critical to the national defense.

Subsection (a) would introduce an annual enrollment fee for new TRICARE for Life beneficiaries (i.e., those retirees and dependents who become Medicare-eligible after enactment). This fee would not be charged to a survivor of a member who died while on active duty or a disability retiree or dependent of such a person and grandfathers those beneficiaries already in the TFL program prior to enactment. This enrollment fee would also be based on a percentage of retired pay, phased in over four years, and subject to a maximum amount. The applicable percentage and maximum amounts for calendar years 2016 through 2019 for a family of 2 or more persons would be as provided in the following table.

	Percentage	Maximum Amount for Retired Grades O-7 through 0-10	Maximum Amount for all Others
2016	0.5	$200	$150
2017	1.0	$400	$300
2018	1.5	$600	$450
2019	2.0	$800	$600

After 2019, the percentage would remain 2.0 and the maximum amounts would be adjusted by the COLA. The enrollment fee percentage and maximum fee for an individual is one-half that for a family.

Subsection (b) would make revisions to the TRICARE pharmacy benefits program. It would set per-prescription generally applicable copayments in 2016 through 2024, but would exempt from these copayments survivors member who died while on active duty and disability retirees and their family members. The copayment amounts would be as follows:

	Retail Generic	Retail Formulary	Mail Order Generic	Mail Order Formulary	Mail Order Non-formulary
2016	$8	$28	$0	$28	$54
2017	$8	$30	$0	$30	$58
2018	$8	$32	$0	$32	$62
2019	$9	$34	$9	$34	$66
2020	$10	$36	$10	$36	$70
2021	$11	$38	$11	$38	$75
2022	$12	$40	$12	$40	$80
2023	$13	$43	$13	$43	$85
2024	$14	$45	$14	$45	$90

After 2024, amounts would be adjusted based on changes in costs of pharmaceutical agents and prescription dispensing. Retail prescriptions would continue to be for a supply of up to 30 days, and mail order prescriptions for a supply of up to 90 days.

Subsection (c) would provide authority for the Secretary of Defense to adjust payments into the Medicare-Eligible Retiree Health Care Fund in the event that on October 1, at the time the annual contributions into the Fund are due, a significant change in law requested in the Budget of the President for that fiscal year would affect the amount due for the new fiscal year, the payment into the Fund could be an adjusted amount that would be the correct amount if the changes are enacted. Within 120 days, the Secretary would be required to tell the Secretary of Treasury whether the changes were enacted and if an additional contribution to the Fund is needed for that fiscal year. If needed, the Secretary of Treasury will promptly make it. Similar transactions would occur with respect to the non-DoD uniformed services. This change in process will ensure that the current year budget correctly reflects actual anticipated requirements.

Budgetary Implications: This proposal would reduce the requirements for the Military Health System's Unified Medical Budget by $402 million in FY 2016 and $2.4 billion for FY 2016 – FY 2020. Specifically, the proposals would reduce Defense Health Program requirements by $15 million for FY 2016 and by $282 million for FY 2016 – FY 2020. Funding requirements for the Military Departments' Medicare-Eligible Retiree Health Care Fund (MERHCF) Contribution accounts would be reduced by $387 million in FY 2016 and by $2.1 billion for FY 2016 – FY 2020. The proposals would result in mandatory savings of $74 million in FY 2016 and $1.3 billion for FY 2016 – FY 2020. The reduced discretionary contributions to the MERHCF would also result in reduced mandatory collections of the amounts listed above for the Department of Defense (DoD), which are non-scoreable costs; including the effects on the Coast

Guard, Public Health Service, and National Oceanic and Atmospheric Administration, these amounts increase to $398 million in FY 2016 and $2.2 billion for FY 2016 – FY 2020. DoD estimates these savings and costs based on revising cost shares (enrollment fees and pharmacy co-pays). The implementation of a TRICARE for Life enrollment fee would be ramped up over a period of four years with a mechanism for indexing those fees thereafter based on the growth in the annual retiree COLA. The pharmacy co-pay increases would be phased-in over a nine year period with increases thereafter tied to the cost of pharmaceutical agents and prescription dispensing. Estimates of the impacts of those revised cost shares include reductions in direct costs from the cost shares, reduced users and reduced utilization of health care services.

RESOURCE REQUIREMENTS ($MILLIONS)								
	FY 2016	**FY 2017**	**FY 2018**	**FY 2019**	**FY 2020**	**Appropriation From**	**Budget Activity**	**Dash-1 Line Item**
Defense Health	-15	-36	-43	-79	-110	Operation and Maintenance, Defense Health Program	01	02
Army	-104	-106	-109	-114	-118	Medicare-Eligible Retiree Health Fund Contribution, Army	01/02	01
Navy	-71	-75	-78	-82	-87	Medicare-Eligible Retiree Health Fund Contribution, Navy	01/02	01
Marine Corps	-40	-42	-44	-46	-49	Medicare-Eligible Retiree Health Fund Contribution, Marine Corps	01/02	01
Air Force	-69	-72	-75	-79	-82	Medicare-Eligible Retiree Health Fund Contribution,	01/02	01

						Air Force		
Army Reserve	-25	-26	-27	-28	-30	Medicare-Eligible Retiree Health Fund Contribution, Army Reserve	01	01
Navy Reserve	-8	-8	-9	-9	-10	Medicare-Eligible Retiree Health Fund Contribution, Navy Reserve	01	01
Marine Corps Reserve	-5	-5	-5	-5	-6	Medicare-Eligible Retiree Health Fund Contribution, Marine Corps Reserve	01	01
Air Force Reserve	-8	-9	-9	-9	-10	Medicare-Eligible Retiree Health Fund Contribution, Air Force Reserve	01	01
Army National Guard	-43	-45	-46	-49	-51	Medicare-Eligible Retiree Health Fund Contribution, National Guard Personnel, Army	01	01
Air National Guard	-14	-14	-15	-16	-17	Medicare-Eligible Retiree Health Fund Contribution,	01	01

						National Guard Personnel, Air Force		
Total	-402	-438	-460	-516	-570			

Changes to Existing Law: This proposal would make the following changes to chapters 55 and 56 of title 10, United States Code.

TITLE 10, UNITED STATES CODE

CHAPTER 55—MEDICAL AND DENTAL CARE

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§ 1074g. Pharmacy benefits program

(a) PHARMACY BENEFITS.—(1) The Secretary of Defense, after consulting with the other administering Secretaries, shall establish an effective, efficient, integrated pharmacy benefits program under this chapter (hereinafter in this section referred to as the "pharmacy benefits program").

(2)(A) The pharmacy benefits program shall include a uniform formulary of pharmaceutical agents, which shall assure the availability of pharmaceutical agents in the complete range of therapeutic classes. The selection for inclusion on the uniform formulary of particular pharmaceutical agents in each therapeutic class shall be based on the relative clinical and cost effectiveness of the agents in such class.

(B) In considering the relative clinical effectiveness of agents under subparagraph (A), the Secretary shall presume inclusion in a therapeutic class of a pharmaceutical agent, unless the Pharmacy and Therapeutics Committee established under subsection (b) finds that a pharmaceutical agent does not have a significant, clinically meaningful therapeutic advantage in terms of safety, effectiveness, or clinical outcome over the other drugs included on the uniform formulary.

(C) In considering the relative cost effectiveness of agents under subparagraph (A), the Secretary shall rely on the evaluation by the Pharmacy and Therapeutics Committee of the costs of agents in a therapeutic class in relation to the safety, effectiveness, and clinical outcomes of such agents.

(D) The Secretary shall establish procedures for the selection of particular pharmaceutical agents for the uniform formulary. Such procedures shall be established so as best to accomplish, in the judgment of the Secretary, the objectives set forth in paragraph (1). Except as provided in subparagraph (F), no pharmaceutical agent may be excluded from the uniform formulary except upon the recommendation of the Pharmacy and Therapeutics Committee.

(E) Pharmaceutical agents included on the uniform formulary shall be available to eligible covered beneficiaries through—

(i) facilities of the uniformed services, consistent with the scope of health care services offered in such facilities and additional determinations by the Pharmacy and Therapeutics Committee of the relative clinical and cost effectiveness of the agents;

(ii) retail pharmacies designated or eligible under the TRICARE program or the Civilian Health and Medical Program of the Uniformed Services to provide pharmaceutical agents to covered beneficiaries; or

(iii) the national mail-order pharmacy program.

(F)(i) The Secretary may implement procedures to place selected over-the-counter drugs on the uniform formulary and to make such drugs available to eligible covered beneficiaries. An over-the-counter drug may be included on the uniform formulary only if the Pharmacy and Therapeutics Committee established under subsection (b) finds that the over-the-counter drug is cost effective and clinically effective. If the Pharmacy and Therapeutics Committee recommends an over-the-counter drug for inclusion on the uniform formulary, the drug shall be considered to be in the same therapeutic class of pharmaceutical agents, as determined by the Committee, as similar prescription drugs.

(ii) Regulations prescribed by the Secretary to carry out clause (i) shall include the following with respect to over-the-counter drugs included on the uniform formulary:

(I) A determination of the means and conditions under paragraphs (5) and (6) through which over-the-counter drugs will be available to eligible covered beneficiaries and the amount of cost sharing that such beneficiaries will be required to pay for over-the-counter drugs, if any, except that no such cost sharing may be required for a member of a uniformed service on active duty.

(II) Any terms and conditions for the dispensing of over-the-counter drugs to eligible covered beneficiaries.

(3) The pharmacy benefits program shall assure the availability of clinically appropriate pharmaceutical agents to members of the armed forces, including, where appropriate, agents not included on the uniform formulary described in paragraph (2).

(4) The pharmacy benefits program may provide that prior authorization be required for certain pharmaceutical agents to assure that the use of such agents is clinically appropriate.

(5) The pharmacy benefits program shall assure the availability to eligible covered beneficiaries of pharmaceutical agents not included on the uniform formulary. Such pharmaceutical agents shall be available through the national mail-order pharmacy program under terms and conditions that shall include cost-sharing by the eligible covered beneficiary as specified in paragraph (6).

~~(6)(A) The Secretary, in the regulations prescribed under subsection (h), shall establish cost-sharing requirements under the pharmacy benefits program. In accordance with subparagraph (C), such cost-sharing requirements shall consist of the following:~~

~~(i) With respect to each supply of a prescription covering not more than 30 days that is obtained by a covered beneficiary under the TRICARE retail pharmacy program-~~

~~(I) in the case of generic agents, $8;~~

~~(II) in the case of formulary agents, $20.~~

~~(ii) With respect to each supply of a prescription covering not more than 90 days that is obtained by a covered beneficiary under the national mail-order pharmacy program-~~

~~(I) in the case of generic agents, $0;~~

~~(II) in the case of formulary agents, $16; and~~

~~(III) in the case of nonformulary agents, $46.~~

~~(B) For a medicare-eligible beneficiary, the cost-sharing requirements may not be in excess of the cost-sharing requirements applicable to all other beneficiaries covered by section 1086 of this title. For purposes of the preceding sentence, a medicare-eligible beneficiary is a beneficiary eligible for health benefits under section 1086 of this title pursuant to subsection (d)(2) of such section.~~

~~(C)(i) Beginning October 1, 2013, the amount of any increase in a cost-sharing amount specified in subparagraph (A) in a year may not exceed the amount equal to the percentage of such cost-sharing amount at the time of such increase equal to the percentage by which retired pay is increased under section 1401a of this title in that year.~~

~~(ii) If the amount of the increase otherwise provided for a year by clause (i) is less than $1, the increase shall not be made for such year, but shall be carried over to, and accumulated with, the amount of the increase for the subsequent year or years and made when the aggregate amount of increases carried over under this clause for a year is $1 or more.~~

~~(iii) The provisions of this subparagraph shall not apply to any increase in cost-sharing amounts described in clause (i) that is made by the Secretary of Defense on or after October 1, 2022. The Secretary may increase copayments, as considered appropriate by the Secretary, beginning on October 1, 2022.~~

(6)(A) In the case of any of the calendar years 2016 through 2024, the cost sharing referred to in paragraph (5) shall be payment by an eligible covered beneficiary of amounts determined in accordance with the following table:

For:	*The cost sharing amount for 30-day supply of a retail generic is:*	*The cost sharing amount for 30-day supply of a retail formulary is:*	*The cost sharing amount for a 90-day supply of a mail order generic is:*	*The cost sharing amount for a 90-day supply of a mail order formulary is:*	*The cost amount for a 90-day supply of a mail order non-formulary is:*
2016	*$8*	*$28*	*$0*	*$28*	*$54*
2017	*$8*	*$30*	*$0*	*$30*	*$58*
2018	*$8*	*$32*	*$0*	*$32*	*$62*
2019	*$9*	*$34*	*$9*	*$34*	*$66*
2020	*$10*	*$36*	*$10*	*$36*	*$70*
2021	*$11*	*$38*	*$11*	*$38*	*$75*
2022	*$12*	*$40*	*$12*	*$40*	*$80*
2023	*$13*	*$43*	*$13*	*$43*	*$85*
2024	*$14*	*$45*	*$14*	*$45*	*$90*

(B) For any year after 2024, the cost sharing referred to in paragraph (5) shall be payment by an eligible covered beneficiary of amounts equal to the cost-sharing amounts for the previous year, adjusted by an amount, if any, as determined by the Secretary to reflect changes in the costs of pharmaceutical agents and prescription dispensing, rounded to the nearest dollar.

(C) Notwithstanding subparagraphs (A) and (B), the cost-sharing amounts referred to in paragraph (5) for any year after 2015 shall be the cost-sharing amounts, if any, under this section as of January 1, 2015, in the case of—

(i) a dependent of a member of the uniformed services who dies while on active duty;

(ii) a member retired under chapter 61 of this title; or

(iii) a dependent of such a member.

(7) The Secretary shall establish procedures for eligible covered beneficiaries to receive pharmaceutical agents that are not included on the uniform formulary but that are considered to be clinically necessary. Such procedures shall include peer review procedures under which the Secretary may determine that there is a clinical justification for the use of a pharmaceutical agent that is not on the uniform formulary, in which case the pharmaceutical agent shall be provided under the same terms and conditions as an agent on the uniform formulary. Such procedures shall also include an expeditious appeals process for an eligible covered beneficiary, or a network or uniformed provider on behalf of the beneficiary, to establish clinical justification for the use of a pharmaceutical agent that is not on the uniform formulary.

(8) In carrying out this subsection, the Secretary shall ensure that an eligible covered beneficiary may continue to receive coverage for any maintenance pharmaceutical that is not on the uniform formulary and that was prescribed for the beneficiary before October 5, 1999, and stabilized the medical condition of the beneficiary.

(9)(A) Beginning on October 1, 2015, the pharmacy benefits program shall require eligible covered beneficiaries generally to refill non-generic prescription maintenance medications through military treatment facility pharmacies or the national mail-order pharmacy program.

(B) The Secretary shall determine the maintenance medications subject to the requirement under subparagraph (A). The Secretary shall ensure that--

(i) such medications are generally available to eligible covered beneficiaries through retail pharmacies only for an initial filling of a 30-day or less supply; and

(ii) any refills of such medications are obtained through a military treatment facility pharmacy or the national mail-order pharmacy program.

(C) The Secretary may exempt the following prescription maintenance medications from the requirement of subparagraph (A):

(i) Medications that are for acute care needs.

(ii) Such other medications as the Secretary determines appropriate.

(b) ESTABLISHMENT OF COMMITTEE.—(1) The Secretary of Defense shall, in consultation with the Secretaries of the military departments, establish a Pharmacy and Therapeutics Committee for the purpose of developing the uniform formulary of pharmaceutical agents required by subsection (a), reviewing such formulary on a periodic basis, and making additional recommendations regarding the formulary as the committee determines necessary and appropriate. The committee shall include representatives of pharmacies of the uniformed services facilities and representatives of providers in facilities of the uniformed services. Committee members shall have expertise in treating the medical needs of the populations served through such entities and in the range of pharmaceutical and biological medicines available for treating such populations. The committee shall function under procedures established by the Secretary under the regulations prescribed under subsection (h).

(2) The committee shall meet at least quarterly and shall, during meetings, consider for inclusion on the uniform formulary under the standards established in subsection (a) any drugs newly approved by the Food and Drug Administration.

(c) ADVISORY PANEL.—(1) Concurrent with the establishment of the Pharmacy and Therapeutics Committee under subsection (b), the Secretary shall establish a Uniform Formulary Beneficiary Advisory Panel to review and comment on the development of the uniform formulary. The Secretary shall consider the comments of the panel before implementing the uniform formulary or implementing changes to the uniform formulary.

(2) The Secretary shall determine the size and membership of the panel established under paragraph (1), which shall include members that represent—

(A) nongovernmental organizations and associations that represent the views and interests of a large number of eligible covered beneficiaries;

(B) contractors responsible for the TRICARE retail pharmacy program;

(C) contractors responsible for the national mail-order pharmacy program; and

(D) TRICARE network providers.

(d) PROCEDURES.—(1) In the operation of the pharmacy benefits program under subsection (a), the Secretary of Defense shall assure through management and new contractual arrangements that financial resources are aligned such that the cost of prescriptions is borne by the organization that is financially responsible for the health care of the eligible covered beneficiary.

(2) The Secretary shall use a modification to the bid price adjustment methodology in the managed care support contracts current as of October 5, 1999, to ensure equitable and timely reimbursement to the TRICARE managed care support contractors for pharmaceutical products delivered in the nonmilitary environments. The methodology shall take into account the "at-risk" nature of the contracts as well as managed care support contractor pharmacy costs attributable to changes to pharmacy service or formulary management at military medical treatment facilities, and other military activities and policies that affect costs of pharmacy benefits provided through the Civilian Health and Medical Program of the Uniformed Services. The methodology shall also account for military treatment facility costs attributable to the delivery of pharmaceutical products in the military facility environment which were prescribed by a network provider.

(e) PHARMACY DATA TRANSACTION SERVICE—The Secretary of Defense shall implement the use of the Pharmacy Data Transaction Service in all fixed facilities of the uniformed services under the jurisdiction of the Secretary, in the TRICARE retail pharmacy program, and in the national mail-order pharmacy program.

(f) PROCUREMENT OF PHARMACEUTICALS BY TRICARE RETAIL PHARMACY PROGRAM.—With respect to any prescription filled after January 28, 2008, the TRICARE retail pharmacy program shall be treated as an element of the Department of Defense for purposes of the procurement of drugs by Federal agencies under section 8126 of title 38 to the extent necessary to ensure that pharmaceuticals paid for by the Department of Defense that are provided by pharmacies under the program to eligible covered beneficiaries under this section are subject to the pricing standards in such section 8126.

(g) DEFINITIONS.—In this section:

(1) The term "eligible covered beneficiary" means a covered beneficiary for whom eligibility to receive pharmacy benefits through the means described in subsection (a)(2)(E) is established under this chapter or another provision of law.

(2) The term "pharmaceutical agent" means drugs, biological products, and medical devices under the regulatory authority of the Food and Drug Administration.

(3) The term "over-the-counter drug" means a drug that is not subject to section 503(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 353(b)).

(4) The term "prescription drug" means a drug that is subject to section 503(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 353(b)).

(h) REGULATIONS.—The Secretary of Defense shall, after consultation with the other administering Secretaries, prescribe regulations to carry out this section.

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§ 1086. Contracts for health benefits for certain members, former members, and their dependents

(a) To assure that health benefits are available for the persons covered by subsection (c), the Secretary of Defense, after consulting with the other administering Secretaries, shall contract under the authority of this section for health benefits for those persons under the same insurance, medical service, or health plans he contracts for under section 1079(a) of this title. However, eye examinations may not be provided under such plans for persons covered by subsection (c).

(b) For persons covered by this section the plans contracted for under section 1079(a) of this title shall contain the following provisions for payment by the patient:

(1) Except as provided in paragraph (2), the first $150 each fiscal year of the charges for all types of care authorized by this section and received while in an outpatient status and 25 percent of all subsequent charges for such care during a fiscal year.

(2) A family group of two or more persons covered by this section shall not be required to pay collectively more than the first $300 each fiscal year of the charges for all types of care authorized by this section and received while in an outpatient status and 25 percent of the additional charges for such care during a fiscal year.

(3) 25 percent of the charges for inpatient care, except that in no case may the charges for inpatient care for a patient exceed $535 per day during the period beginning on April 1, 2006, and ending on September 30, 2011. The Secretary of Defense may exempt a patient from paying such charges if the hospital to which the patient is admitted does not impose a legal obligation on any of its patients to pay for inpatient care.

(4) A member or former member of a uniformed service covered by this section by reason of section 1074(b) of this title, or an individual or family group of two or more persons covered by this section, may not be required to pay a total of more than $3,000 for health care received during any fiscal year under a plan contracted for under section 1079(a) of this title.

(c) Except as provided in subsection (d), the following persons are eligible for health benefits under this section:

(1) Those covered by sections 1074(b) and 1076(b) of this title, except those covered by section 1072(2)(E) of this title.

(2) A dependent (other than a dependent covered by section 1072(2)(E) of this title) of a member of a uniformed service-

(A) who died while on active duty for a period of more than 30 days; or

(B) who died from an injury, illness, or disease incurred or aggravated—

(i) while on active duty under a call or order to active duty of 30 days or less, on active duty for training, or on inactive duty training; or

(ii) while traveling to or from the place at which the member is to perform, or has performed, such active duty, active duty for training, or inactive duty training.

(3) A dependent covered by clause (F), (G), or (H) of section 1072(2) of this title who is not eligible under paragraph (1).

(d)(1) A person who is entitled to hospital insurance benefits under part A of title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.) is not eligible for health benefits under this section.

(2) The prohibition contained in paragraph (1) shall not apply to a person referred to in subsection (c) who–

(A) is enrolled in the supplementary medical insurance program under part B of such title (42 U.S.C. 1395j et seq.); and

(B) in the case of a person under 65 years of age, is entitled to hospital insurance benefits under part A of title XVIII of the Social Security Act pursuant to subparagraph (A) or (C) of section 226(b)(2) of such Act (42 U.S.C. 426(b)(2)) or section 226A(a) of such Act (42 U.S.C. 426–1(a)).

(3)(A) Subject to subparagraph (B), if a person described in paragraph (2) receives medical or dental care for which payment may be made under medicare and a plan contracted for under subsection (a), the amount payable for that care under the plan shall be the amount of the actual out-of-pocket costs incurred by the person for that care over the sum of-

(i) the amount paid for that care under medicare; and

(ii) the total of all amounts paid or payable by third party payers other than medicare.

(B) The amount payable for care under a plan pursuant to subparagraph (A) may not exceed the total amount that would be paid under the plan if payment for that care were made solely under the plan.

(C)(i) A person described in paragraph (2) (except as provided in clauses (vi) and (vii)) shall be required to pay an annual enrollment fee as a condition of eligibility for health care benefits under this section. Such enrollment fee shall be an amount (rounded to the nearest dollar) equal to the applicable percentage (specified in clause (ii)) of the annual retired pay of the member or former member upon whom the covered beneficiary's eligibility is based, except that the amount of such enrollment fee shall not be in excess of the applicable maximum enrollment fee (specified in clause (iii)). In the case of enrollment for a period less than a full calendar year, the enrollment fee shall be a pro-rated amount of the full-year enrollment fee.

(ii) The applicable percentage of retired pay shall be determined in accordance with the following table:

For:	*The applicable*	*The applicable*

	percentage for a family group of two or more persons is:	*percentage for an individual is:*
2016	*0.50%*	*0.25%*
2017	*1.00%*	*0.50%*
2018	*1.50%*	*0.75%*
2019 and after	*2.00%*	*1.00%*

(iii) For any year 2016 through 2019, the applicable maximum enrollment fee for a family group of two or more persons shall be determined in accordance with the following table:

For:	*The applicable maximum enrollment fee for a family group whose eligibility is based upon a member or former member of retired grade O-7 or above is:*	*The applicable maximum enrollment fee for a family group whose eligibility is based upon a member or former member of retired grade O-6 or below is:*
2016	*$200*	*$150*
2017	*$400*	*$300*
2018	*$600*	*$450*
2019	*$800*	*$600*

(iv) For any year after 2019, the applicable maximum enrollment fee shall be equal to the maximum enrollment fee for the previous year increased by the percentage by which retired pay is increased under section 1401a(b)(2) of this title for such year.

(v) The applicable maximum enrollment fee for an individual shall be one-half the corresponding maximum fee for a family group of two or more persons (as determined under clauses (iii) and (iv)).

(vi) Clause (i) does not apply to—

(I) a dependent of a member of the uniformed services who dies while on active duty;

(II) a member retired under chapter 61 of this title; or

(III) a dependent of such a member.

(vii) Clause (i) does not apply to a person who, before January 1, 2016, met the conditions described in paragraphs (2)(A) and (B).

~~(C)~~ *(D)* In this paragraph:

(i) The term "medicare" means title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.).

(ii) The term "third party payer" has the meaning given such term in section 1095(h)(1) of this title.

(4) ***

(e) ***

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CHAPTER 56—DEPARTMENT OF DEFENSE MEDICARE-ELIGIBLE RETIREE HEALTH CARE FUND

§ 1116. Payments into the Fund

(a) At the beginning of each fiscal year after September 30, 2005, the Secretary of the Treasury shall promptly pay into the Fund from the General Fund of the Treasury—

(1) the amount certified to the Secretary by the Secretary of Defense under subsection (c)(1), which (together with any amount paid into the Fund under subsection (c)(4)) shall be the contribution to the Fund for that fiscal year required by section 1115; and

(2) the amount determined by each administering Secretary under section 1111(c) as the contribution to the Fund on behalf of the members of the uniformed services under the jurisdiction of that Secretary.

(b) At the beginning of each fiscal year, the Secretary of Defense shall determine the sum of the following:

(1) The amount of the payment for that year under the amortization schedule determined by the Board of Actuaries under section 1115(a) of this title for the amortization of the original unfunded liability of the Fund.

(2) The amount (including any negative amount) of the Department of Defense contribution for that year as determined by the Secretary of Defense under section 1115(b) of this title.

(3) The amount (including any negative amount) for that year under the most recent amortization schedule determined by the Secretary of Defense under section 1115(c)(2) of this title for the amortization of any cumulative unfunded liability (or any gain) to the Fund resulting from changes in benefits.

(4) The amount (including any negative amount) for that year under the most recent amortization schedule determined by the Secretary of Defense under section 1115(c)(3) of this title for the amortization of any cumulative actuarial gain or loss to the Fund resulting from actuarial assumption changes.

(5) The amount (including any negative amount) for that year under the most recent amortization schedule determined by the Secretary of Defense under section 1115(c)(4) of this title for the amortization of any cumulative actuarial gain or loss to the Fund resulting from actuarial experience.

(c)*(1) Except as provided in paragraph (2), t*The Secretary of Defense shall promptly certify the amount determined under subsection (b) each year to the Secretary of the Treasury.

(2) If for any fiscal year the Secretary of Defense determines at the beginning of that fiscal year that the amount that would otherwise be required to be certified under paragraph (1) for that fiscal year would not be accurate if there were to be enacted during the current session of Congress a significant change in law then under active consideration by Congress that upon enactment would reduce the amount otherwise required to be certified under paragraph (1) for that fiscal year, the Secretary may certify to the Secretary of the Treasury under paragraph (1) a reduced amount for that fiscal year taking into consideration the amount of the reduction for that fiscal year that would occur upon enactment of such change in law.

(3) Not later than 120 days after the beginning of a fiscal year for which a certification under paragraph (1) is submitted pursuant to paragraph (2), the Secretary of Defense—

(A) shall notify the Secretary of the Treasury whether since the beginning of the fiscal year a significant change in law has been enacted which if in effect at the beginning of the fiscal year would have resulted in a revised amount certified under paragraph (1) without regard to paragraph (2); and

(B) based upon any such change in law since the beginning of the fiscal year, shall certify a final amount for the fiscal year.

(4) If a final amount certified under paragraph (3) for any fiscal year is greater than the amount certified pursuant to paragraph (2) for that fiscal year, the Secretary of the Treasury shall promptly pay into the Fund from the General Fund of the Treasury the difference between those amounts.

(5) In this subsection, the term "under active consideration by Congress", with respect to a bill or joint resolution in the Senate or House of Representatives, means that the bill or joint resolution—

(A) has been passed by either House of Congress; or

(B) has been reported by the Committee on Armed Services of the Senate or House or Representatives to its respective House and referred to the appropriate calendar.

(d) At the same time as the Secretary of Defense makes the certification under subsection (c), the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives the information provided to the Secretary of the Treasury under that subsection.