



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

DEC 21 1999

THE ASSISTANT SECRETARY

TRICARE Management Activity
Office of the General Counsel
16401 East Centretch Parkway
Aurora, CO 80011-9043

Re: Comments on DOD NPRM for 32 CFR Part 199, 64 Fed Reg. 56283 10/19/99)

The above-referenced Notice of Proposed Rulemaking (NPRM) contains amendments to 32 CFR §199.8, which concerns "double coverage" under the CHAMPUS/TRICARE program. We request that this regulation be further amended to clarify that CHAMPUS/TRICARE is first payor to the early intervention program under Part C of the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. §§1431-1445.

Part C of the IDEA grants funds to states to provide services to infants and toddlers with disabilities and their families. In the 1997 amendments to the IDEA, Congress added language to section 640(a) of the IDEA to clarify that:

Funds provided [under Part C] may not be used to satisfy a financial commitment for services that would have been paid for from another public or private source, including any medical program administered by the Secretary of Defense but for the enactment of this part . . .

The House and Senate Reports accompanying this legislation state that "[t]he bill clarifies that part C is truly the payor of last resort even for military families who are eligible for medical programs administered by the Department of Defense." H. Rep. No. 105-95, at 116 (105th Cong. 1st Sess., May 13, 1997), S. Rep. No. 105-17, at 36 (105th Cong. 1st Sess., May 9, 1997). The Part C regulations were amended to include this provision at 34 CFR §303.527(a), 63 Fed.Reg. 18290 (April 14, 1998).

Military families of infants and toddlers with disabilities served under Part C have historically had difficulties in obtaining coverage from TRICARE/CHAMPUS for services provided as part of early intervention under Part C that also qualify under the TRICARE/CHAMPUS program. Congress recognized this in passing the 1997 legislative change. A corresponding change to the DOD regulations would help implement this policy and assure that these families receive the services to which they are entitled under TRICARE/CHAMPUS.

We commend your office for its involvement in the activities of the Federal Interagency Coordinating Council, which is charged under section 644 of the IDEA with coordinating federal policies regarding young children with disabilities. Together our agencies have made real progress in this area.

Sincerely yours,

Judith E. Heumann