



September 15, 2022

The Honorable Jack Reed, Chairman
The Honorable James Inhofe, Ranking Member
Senate Armed Services Committee
228 Russell Senate Office Building
Washington, DC 20510

The Honorable Adam Smith, Chairman
The Honorable Mike Rogers, Ranking Member
House Armed Services Committee
2216 Rayburn House Office Building
Washington, DC 20515

Dear Chairmen and Ranking Members:

The Tricare for Kids (TFK) Coalition, a stakeholder group of children's health care advocacy and professional organizations, disability advocacy groups, military and veterans' service organizations and military families, would like to thank the committees for their responsiveness and thoughtful inclusion of provisions in the National Defense Authorization Act (NDAA) for Fiscal Year 2023 that will positively impact access to care, particularly mental and behavioral health care, for more than two million children of military families covered by TRICARE.

Tricare for Kids supports the following provisions of the NDAA and urges inclusion in the final Senate bill and conference committee legislation respectively:

Improved Access to Mental and Behavioral Health Care

HR 7900, Sec. 741. GAO Study Comparing Tricare Coverage with Mental Health Parity Laws.

This section would require a GAO report on whether TRICARE conforms with the requirements of certain mental health parity laws.

TFK supports a study to provide a basis for identifying gaps and improving access to mental health for military families. To be more consistent with the language of federal parity law and thus explicit with respect to the comparisons sought, we are suggesting minor edits to the language of Sec. 741. Recommendations attached.

HR 7900, Sec. 708. Audit of behavioral health care network providers

While a once in time audit will not address every aspect of provider directory challenges, it will provide a basis from which to learn and build upon. The Coalition suggest minor changes to this provision to ensure that both institutional and individual professional providers are included in the analysis, and that the recommendations required post audit include suggestions for improving ability for beneficiaries to identify network providers through directory search functions. Recommendations attached.

HR 7900, Sec. 729. Incentive payments for retention of certain behavioral health providers.

This section would require DoD to use available authorities to increase the use of incentive payments for civilian behavioral health providers.

Reimbursement rates are consistently cited as a barrier to provider participation and therefore, access to care, thus any improvements to payment rates would be welcome.

HR 7900, Sec. 767. Improving behavioral health care available in the military health system.

S 4543, Sec. 752. Report on behavioral health workforce and plan to address shortfalls.

S 4543, Items of Special Interest – Allocation of uniformed mental health providers at remote locations.

Workforce shortages and challenges continue to comprise a barrier to access to behavioral health care for children and youth across the country, in civilian as well as well as military communities, and the Coalition therefore supports efforts to understand and address these challenges and transparency in doing so.

Autism Care Demonstration (ACD)

HR 7900, Sec. 764. Clarifications relating to analysis of the ACD by national academies.

S 4543, Sec. 750. Independent analysis of ACD Program.

Extends and expands scope of the NASEM study supported by the Coalition in the FY22 NDAA.

HR 7900, Sec. 706. Rates of reimbursement for providers of ABA

Reverses payment rate cuts to applied behavior analysis (ABA) payment rates under the ACD.

While both NASEM provisions improve the direction regarding the study, the Senate language provides more substantive clarification and therefore preferred for inclusion in final legislation. Reimbursement rates are consistently cited as a barrier to provider participation and therefore, access to care, thus any improvements to payment rates would be welcome.

S 4543 Item of Special Interest - Parent stress measures under Autism Care Demonstration (ACD).

Directs the Defense Health Agency to: (1) re-evaluate the stress testing used in the ACD and determine if other validated tests or surveys may better gauge family stress; (2) modify or eliminate overly intrusive questions in the current test or any subsequent test; and (3) ensure that parents understand that they are not required to answer objectionable questions.

The Coalition has expressed strong concerns about the appropriateness and intrusiveness of this policy since its inception and appreciates the Committee's stance. While this is perhaps the most clearly objectionable of the policies implemented in Spring 2021, we continue to advocate that other issues, some more nuanced in detail and implementation, should also be addressed.

Access to Care

HR 7900, Sec. 757. GAO study on access to Exceptional Family Member (EFMP) and Extended Care Health Option (ECHO) programs by members of reserve components.

The Coalition supports this report to analyze the eligibility and barriers to access care and support pursuant to EFMP and ECHO programs for Guard and Reserve.

S 4543, Sec. 704. Improvement of referrals for Tricare Prime Specialty Care during PCS.

The committee recommends a provision to improve the medical referral process such that beneficiaries enrolled in Prime shall receive referrals for specialty care services, as they may need, at the gaining location when making permanent change of station moves. It requires a briefing to the Committees not later than 180 days after the date of the enactment on the contractual and technical barriers preventing record sharing between civilian provider networks that may lead to increased wait times for care when moving from one region to another.

The Coalition has long worked to improve the ability of families to obtain referrals and schedule appointments in their gaining station in anticipation of PCS moves as a critical element of continuity of care and supports the recommendation, briefing and accountability for implementing timely and seamless “warm hand offs”. TFK suggests including testimony from the beneficiary perspective and experiences as part of the briefing required under this section.

S 4543, Item of Special Interest - Obstetrical Care Referrals

Addresses issues with the Right of First Refusal (ROFR) policy which has been utilized in questionable situations such as third trimester of pregnancy, and unnecessarily disrupts continuity of care at a critical time, by directing DHA to revise the ROFR policy to prevent late-stage recapture to MTFs during the course of obstetrical care.

The Coalition shares the committee’s concerns and would like to see a review of the policy to determine other situations, such as pediatric complex and chronic care, in which exercising the ROFR may also be detrimental to continuity of care.

Military Medical Manning and Medical Billets

HR 7900, Sec. 721. Congressional notification requirement to modify scope of services at MTFs.

This section would require Congressional notification to modify scope of services provided at military treatment facilities (MTF) and, if the proposed modification involves termination or reduction of inpatient capabilities at a military MTF located outside the United States, provide to each member of the armed forces or covered beneficiary receiving services at such facility a transition plan for the continuity of health and an opportunity to participate in at least two public forums to discuss the transition plan and any related concerns.

HR 7900, Sec. 744. Report on composition of medical personnel of each military department.

This section would require a report on the composition of the medical personnel of each military department, including: an identification of the total number and broken down by officer and enlisted;; an assessment of potential issues relating to the composition of medical personnel; and any plans of the to reduce the total number of such medical personnel; or eliminate any covered position.

HR 7900, Sec. 745. Briefing and report on reduction or realignment of military medical manning and medical billets.

This section builds upon a previously required briefing and report from the Comptroller General of the United States on reduction or realignment of military medical billets to require a briefing on preliminary observations by December 27, 2022, then subsequent report by May 31, 2023.

HR 7900, Sec. 780. Limitation on realignment or reduction of military medical manning end strength.

This section would limit the realignment or reduction of military medical manning end strength for three years from the enactment of the FY23 NDAA and require a report on the composition of military medical workforce requirements. The section would also require the Secretary of Defense to submit to the Committees on Armed Services in the House and Senate a certification of: (1) the completion of a comprehensive review of military medical manning, including with respect to the medical corps; (2) justification for any proposed increase, realignment, reduction, or other change to the specialty and occupational composition of military medical end strength authorizations; and (3) a certification that, in the case that any change to such specialty or occupational composition is required, a vacancy resulting from such change may not be filled with a position other than a health- or medical-related position until such time as there are no military medical billets remaining to fill the vacancy.

The Coalition continues to be concerned regarding reduction and realignment of medical billets negatively impacting access to care for military families in both the short and long term, and therefore

appreciates and strongly supports the Committees' inclusion of these provisions and continued oversight and increased transparency.

Children's Health and Well Being

HR 7900, Sec. 727. Authority to promote early literacy among young children as part of pediatric primary care.

The [Reach and Out and Read](#) program, an evidence-based highly successful program, trains healthcare providers to integrate high-quality children's books into pediatric well-visits from birth to age five.

TFK supports expansion of this program to allow more military families access to its benefits through their direct care pediatric primary care practices, bring them further in line with their civilian counterparts.

HR 7900, Sec. 575. Advisory panel on community support for military families with special needs.

The Coalition supports this provision which sets forth more comprehensively the membership and scope of the special needs families advisory panel.

Thank you for your commitment to addressing the needs of military connected children and their families. I and my colleagues would be happy to discuss further or provide additional information on any of the above provisions, if it would be helpful during your deliberations.

Sincerely,

Kara Tollett Oakley
Chair

Attachments:

Suggested Edits HR7900 Sec. 741

Suggested Edits HR7900 Sec. 708

TFK Suggested Edits:

SEC. 741. GAO STUDY ON COVERAGE OF MENTAL HEALTH DISORDERS UNDER TRICARE PROGRAM AND RELATIONSHIP TO CERTAIN MENTAL HEALTH PARITY LAWS.

Report Language: This section would require a Comptroller General of the United States review on whether TRICARE conforms with the requirements of certain mental health parity laws.

(a) STUDY AND REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Comptroller General of the United States shall—

(1) conduct a study to identify and assess the extent to which the TRICARE program’s coverage of mental health and substance use disorders is consistent with the mental health parity laws, including the identification and analysis of any similarities and differences between TRICARE and the mental health parity laws
; and

(2) submit to the Secretary of Defense, the congressional defense committees, and (with respect to any findings concerning the Coast Guard when it is not operating as a service in the Department of the Navy), the Secretary of Homeland Security, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Commerce, Science, and Transportation of the Senate a report containing the findings of such study.

(b) MATTERS.—The report under subsection (a) shall include the following:

(1) A description of any overlaps or gaps between coverage requirements under the TRICARE program and under the mental health parity laws, with respect to treatment services for mental health disorders (including substance use disorders).

(2) An identification of any existing or anticipated effects of any such overlaps or gaps on access to care by TRICARE beneficiaries.

(3) An identification of denial rates under the TRICARE program for requests by TRICARE beneficiaries for coverage of mental or behavioral health care services, and the overturn rates of appeals for such requests, disaggregated by type of health care service.

(4) A list of each mental or behavioral health care provider type, both institutional providers and individual professional providers, that is not an authorized provider type under the TRICARE program.

(5) An identification of any anticipated effects of modifying coverage requirements under the TRICARE program to bring such requirements into conformity with mental health parity laws, including an assessment of the following:

(A) Potential costs to the Department of Defense, the Department of Homeland Security (with respect to matters concerning the Coast Guard when it is not operating as a service in the Department of the Navy), and TRICARE beneficiaries as a result of such modification.

(B) The adequacy of the TRICARE program network to support such modification.

(C) Potential effects of such modification on access to care by TRICARE beneficiaries.

(D) Such other matters as may be determined appropriate by the Comptroller General.

(c) BRIEFING.—Not later than 90 days after the date on which the Secretaries receives the report submitted under subsection (a), the Secretaries shall provide to the congressional defense committees a briefing on any statutory changes the Secretaries determine necessary to close gaps in the treatment of mental health disorders under the TRICARE program, including any such gaps identified in the report, to bring such coverage into conformity with requirements under mental health parity laws.

(d) DEFINITIONS.—In this section:

(1) The term “mental health parity laws” means—

(A) section 2726 of the Public Health Service Act (42 U.S.C. 300gg–26);

(B) section 712 of the Employee Retirement Income Security Act of 1974 (29 U.S.C.1185a);

(C) section 9812 of the Internal Revenue Code of 1986 (26 U.S.C. 9812); or

(D) any other Federal law that applies the requirements under any of the sections described in subparagraph (A), (B), or (C), or requirements that are substantially similar to those provided under any such section, as determined by the Comptroller General.

(2) The term “TRICARE program” has the meaning given such term in section 1072 of title 10, United States Code.

TFK Suggested Edits:

SEC. 708. AUDIT OF BEHAVIORAL HEALTH CARE NETWORK PROVIDERS LISTED IN TRICARE DIRECTORY.

Report Language: This section requires the Secretary of Defense to conduct an audit of the behavioral health providers listed in the TRICARE directory.

(a) **AUDIT REQUIRED.**—The Secretary of Defense shall conduct an audit of the behavioral health care providers, both institutional providers and individual professional providers, listed in the TRICARE directory.

(b) **REPORT.**—Not later than one year after the date of the enactment of this Act, the Secretary shall submit to the congressional defense committees a report on the findings of the audit under subsection (a). Such report shall include the following:

(1) An identification of the following, disaggregated by provider specialty and TRICARE region:

(A) The number of such behavioral health care providers with respect to which there are duplicate listings in the TRICARE directory.

(B) The number of such behavioral health care providers that, as of the commencement of the audit, were listed in the TRICARE directory as available and accepting new TRICARE patients.

(C) The number of such behavioral health care providers that, as a result of the audit, the Secretary determines are no longer available or accepting new TRICARE patients.

(D) The number of such behavioral health care providers that were not previously listed in the TRICARE directory as available and accepting new TRICARE patients but that, as a result of the audit, the Secretary determines are so available and accepting.

(E) The number of behavioral health care providers listed in the TRICARE directory that are no longer practicing.

(F) The number of behavioral health care providers that, in conducting the audit, the Secretary of Defense could not reach for purposes of verifying information relating to availability or status.

(2) An identification of the number of TRICARE beneficiaries in each TRICARE region, disaggregated by beneficiary category.

(3) A description of the methods by which the Secretary measures the following:

(A) The accessibility and accuracy of the TRICARE directory, with respect to behavioral health care providers listed therein.

(B) The adequacy of behavioral health care providers under the TRICARE program.

(4) A description of the efforts of the Secretary to recruit and retain behavioral health care providers.

(5) Recommendations by the Secretary, based on the findings of the audit, on how to improve the availability of behavioral health care providers that are network providers under the

TRICARE program and the ability to identify network providers through the TRICARE directory search functions, including through the inclusion of specific requirements in the next generation of TRICARE contracts.

(c) DEFINITIONS.—In this section:

(1) The term “TRICARE directory” means the directory of network providers, both institutional providers and individual professional providers, under the TRICARE program.

(2) The term “TRICARE program” has the meaning given such term in section 1072 of title 10, United States Code.