Dear Mr. Chairman:

This letter is in response to Section 567 of H.R. 2647, accompanying the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2010, Public Law 111-84 which requests the Secretary of Defense submit a report describing the progress made in implementing Section 1079(a)(17) of title 10, United States Code, as added by Section 701 of the NDAA for FY 2007.

On July 17, 2009, a Final Rule was published in the Federal Register implementing Section 701 of the NDAA for FY 2007. The amendment authorizes coverage for forensic examinations following a sexual assault or domestic violence for all eligible beneficiaries. It authorizes forensic examinations provided in civilian health care facilities (e.g., civilian rape crisis facilities) following sexual assault or domestic violence, which is consistent with the services that are authorized in military treatment facilities for all beneficiaries who are victims of sexual assault or domestic violence. The effective date of the amendment was August 17, 2009, and applies retroactively to services provided on or after October 17, 2006. A copy of the Final Rule that appeared in the Federal Register is attached.

Thank you for your continued support of the Military Health System.

Sincerely,

Allen W. Middleton
Director Financial Plans and Policy
Performing the Duties of the
Assistant Secretary of Defense
(Health Affairs)

Attachment:
As stated

cc:
The Honorable John McCain
Ranking Member
The Honorable James H. Webb  
Chairman, Subcommittee on Personnel  
Committee on Armed Services  
United States Senate  
Washington, DC 20510  

Dear Mr. Chairman:

This letter is in response to Section 567 of H.R. 2647, accompanying the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2010, Public Law 111-84 which requests the Secretary of Defense submit a report describing the progress made in implementing Section 1079(a)(17) of title 10, United States Code, as added by Section 701 of the NDAA for FY 2007.

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Sincerely,  

Allen W. Middleton  
Director Financial Plans and Policy  
Performing the Duties of the  
Assistant Secretary of Defense  
(Health Affairs)

Attachment:  
As stated  

cc:  
The Honorable Lindsey O. Graham  
Ranking Member
Dear Mr. Chairman:

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Sincerely,

Allen W. Middleton
Director Financial Plans and Policy
Performing the Duties of the
Assistant Secretary of Defense
(Health Affairs)

Attachment:
As stated

cc:
The Honorable Howard P. “Buck” McKeon
Ranking Member
The Honorable Susan Davis  
Chairwoman, Subcommittee on Military Personnel  
Committee on Armed Services  
U.S. House of Representatives  
Washington, DC 20515

Dear Madam Chairwoman:

This letter is in response to Section 567 of H.R. 2647, accompanying the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2010, Public Law 111-84 which requests the Secretary of Defense submit a report describing the progress made in implementing Section 1079(a)(17) of title 10, United States Code, as added by Section 701 of the NDAA for FY 2007.

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Sincerely,

Allen W. Middleton  
Director Financial Plans and Policy  
Performing the Duties of the  
Assistant Secretary of Defense  
(Health Affairs)

Attachment:
As stated

cc:
The Honorable Joe Wilson  
Ranking Member
The Honorable Daniel K. Inouye  
Chairman, Subcommittee on Defense  
Committee on Appropriations  
United States Senate  
Washington, DC  20510

Dear Mr. Chairman:

This letter is in response to Section 567 of H.R. 2647, accompanying the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2010, Public Law 111-84 which requests the Secretary of Defense submit a report describing the progress made in implementing Section 1079(a)(17) of title 10, United States Code, as added by Section 701 of the NDAA for FY 2007.

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Sincerely,

Allen W. Middleton  
Director Financial Plans and Policy  
Performing the Duties of the  
Assistant Secretary of Defense  
(Health Affairs)

Attachment:
As stated

cc:
The Honorable Thad Cochran  
Ranking Member
The Honorable Daniel K. Inouye  
Chairman, Committee on Appropriations  
United States Senate  
Washington, DC 20510

Dear Mr. Chairman:

This letter is in response to Section 567 of H.R. 2647, accompanying the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2010. Public Law 111-84 which requests the Secretary of Defense submit a report describing the progress made in implementing Section 1079(a)(17) of title 10, United States Code, as added by Section 701 of the NDAA for FY 2007.

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Sincerely,

Allen W. Middleton  
Director Financial Plans and Policy  
Performing the Duties of the  
Assistant Secretary of Defense  
(Health Affairs)

Attachment:  
As stated

cc:  
The Honorable Thad Cochran  
Ranking Member
The Honorable David R. Obey  
Chairman, Committee on Appropriations  
U.S. House of Representatives  
Washington, DC 20515

Dear Mr. Chairman:

This letter is in response to Section 567 of H.R. 2647, accompanying the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2010, Public Law 111-84 which requests the Secretary of Defense submit a report describing the progress made in implementing Section 1079(a)(17) of title 10, United States Code, as added by Section 701 of the NDAA for FY 2007.

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Thank you for your continued support of the Military Health System.

Sincerely,

Allen W. Middleton  
Director Financial Plans and Policy  
Performing the Duties of the  
Assistant Secretary of Defense  
(Health Affairs)

Attachment: As stated

cc:  
The Honorable Jerry Lewis  
Ranking Member
The Honorable Norman Dicks  
Acting Chairman, Subcommittee on Defense  
Committee on Appropriations  
U.S. House of Representatives  
Washington, DC 20515

Dear Mr. Chairman:

This letter is in response to Section 567 of H.R. 2647, accompanying the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2010, Public Law 111-84 which requests the Secretary of Defense submit a report describing the progress made in implementing Section 1079(a)(17) of title 10, United States Code, as added by Section 701 of the NDAA for FY 2007.

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Thank you for your continued support of the Military Health System.

Sincerely,

Allen W. Middleton
Director Financial Plans and Policy  
Performing the Duties of the  
Assistant Secretary of Defense  
(Health Affairs)

Attachment:
As stated

cc:
The Honorable C.W. Bill Young
Ranking Member
(F) Written acknowledgment by the PSC and individual PSC personnel that:

(a) Potential civil and criminal liability exists under U.S. and local law or host nation Status of Forces Agreements for the use of weapons. 12

(b) Proof of authorization to be armed must be carried by each PSC personnel.

(c) PSC personnel may possess only U.S.G.-issued and/or -approved weapons and ammunition for which they have been qualified according to U.S.G.-funded PSCs or PSC personnel are in question, in accordance with applicable laws to include a recognition of investigative jurisdiction and coordination for joint investigations (i.e., other U.S.G. agencies, host nation, or third country agencies), where the conduct of PSCs and PSC personnel is in question.

(d) A mechanism by which a commander of a combatant command may request an action by which PSC personnel who are non-compliant with contract requirements are removed from the designated operational area.

(e) Interagency coordination of administrative penalties or removal, as appropriate, of non-DoD PSC personnel who fail to comply with the terms and conditions of their contract, as is applicable to this part.

(f) Implementation of the training requirements contained below in paragraph (a)(1)(iii)(E) of this section.

(g) Specifically cover:

(i) Matters relating to authorized equipment, force protection, security, health, safety, and relations and interaction with locals in accordance with DoD Instruction 3020.41, “Contractor Personnel Authorized to Accompany the U.S. Armed Forces.”

(ii) Predeployment training requirements addressing, at a minimum, the identification of resources and assistance available to PSC personnel as well as country information and cultural training, and guidance on working with host country nationals and military personnel.

(iii) Rules for the use of force and graduated force procedures.

(iv) Requirements and procedures for direction, control and the maintenance of communications with regard to the movement and coordination of PSCs and PSC personnel, including specifying interoperability requirements. These include coordinating with the Chief of Mission, as necessary, private security operations outside secure bases and U.S. diplomatic properties to include movement control procedures for all contractors, including PSC personnel.

(b) Availability of Guidance and Procedures. The geographic Combatant Commander shall ensure the guidance and procedures prescribed in paragraph (a) of this section are readily available and accessible by PSCs and their personnel (e.g., on a Web page and/or through contract terms), consistent with security considerations and requirements.

(c) Subordinate Guidance and Procedures. The Subordinate Commander, in consultation with the Chief of Mission, will issue guidance and procedures implementing the standing combatant command publications specified in paragraph (a) of this section, consistent with the situation and operating environment.

(d) Consultation and Coordination. The Chief of Mission and the geographic Combatant Commander/Subordinate Commander shall make every effort to consult and coordinate responses to common threats and common concerns related to oversight of the conduct of U.S.G.-funded PSC and their personnel. The Memorandum of Agreement between the Department of Defense and Department of State on U.S.G. Private Security Contractors 13 shall provide the framework for the development of guidance and procedures without regard to the specific locations identified therein.

Dated: July 14, 2009.

Patricia L. Toppings,
OSD Federal Register Liaison Officer,
Department of Defense.

[FR Doc. E9–17059 Filed 7–16–09; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 199

[DOD–2007–HA–0127; RIN 0720–AB18]

TRICARE: Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) Changes Included in the John Warner National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2007; Authorization of Forensic Examinations

AGENCY: Office of the Secretary, Department of Defense.

ACTION: Final rule.

SUMMARY: This final rule implements section 701 of the John Warner National Defense Authorization Act for FY 2007, Public Law 109–364. Section 701 amends Title 10 of the United States Code (U.S.C.), Chapter 55, Section 1079(a) by authorizing coverage for

SUPPLEMENTARY INFORMATION:

FOR FURTHER INFORMATION CONTACT: Joy Saly, Office of Medical Benefits and Reimbursement Branch, TRICARE Management Activity, telephone (303) 676–3742. Questions regarding payment of specific claims should be addressed to the appropriate TRICARE contractor.

I. Summary of Final Rule Provisions

This final rule implements section 701 of the John Warner National Defense Authorization Act for Fiscal Year 2007, which establishes coverage of contracted medical care with respect to forensic examinations following a sexual assault or domestic violence. TRICARE pays for and will continue to pay for all emergency room services delivered to a victim.

Prior to section 701, forensic examinations were not covered for beneficiaries in civilian health care facilities through TRICARE medical plan contracts because TRICARE, under 10 U.S.C. 1079(a)(13), may cost share only medically or psychologically necessary services or supplies. Forensic examinations are conducted primarily for preservation of evidence for use in any future criminal investigation and/or prosecution. However, there is a dual purpose for the examination process. One purpose is to address the needs of the justice system, which include: Obtaining a history of the assault; documenting examination findings; properly collecting, handling, and preserving evidence; interpreting and analyzing findings (post examination); and subsequently, presenting findings; and providing factual and expert opinion related to the examination and evidence collection. The other purpose is to address the medical needs of the individual disclosing the sexual assault or domestic violence, which include: Evaluating and treating injuries; conducting prompt examinations; providing support, crisis intervention, and advocacy; providing prophylaxis against sexually transmitted diseases; assessing female patients for pregnancy risk and discussing treatment options, including reproductive health services; and providing follow-up care for medical and emotional needs.

Forensic examinations are paid for Active Duty members by using supplemental health care funds, which, under 10 U.S.C. 1074(c)(1), does not have the same requirement for medical or psychological necessity. All beneficiaries are covered if they are examined in a military treatment facility. The forensic examination became an issue when services were provided in a civilian health care facility. Although most States have laws that designate payment sources to cover the costs of forensic examinations for sexual assault victims (some States even prohibit billing victims), some beneficiaries who were victims of a sexual assault received a bill for the forensic examination. Many States have mechanisms in place that require civilian health care facilities to bill a State agency directly. Certain other States, to some degree, have mechanisms to minimize the possibility of invoicing the beneficiary. This final rule puts into place a mechanism that allows civilian health care facilities to invoice TRICARE for reimbursement of forensic examinations.

Forensic Examination (Early Evidence Kits)

A forensic examination uses an early evidence kit to collect and preserve the evidence. Early evidence kits (also known as rape kits) typically include: Forms for documentation of what is observed; tubes for blood samples; a urine sample container (for detecting drugs that may have been used to facilitate a sexual assault); cotton swabs for biological evidence collection; sterile water; sterile saline; glass slides; unwaxed dental floss; a wooden stick for fingernail scrapings; envelopes or boxes for individual evidence samples; labels for each item and paper bags for clothing collection; and a large sheet of paper for patient to undress over. The victim’s clothing is collected for any external evidence and new clothes are provided. Forensic examinations can take up to 4 hours.

We believe that a large portion of the costs for forensic examinations are probably already being paid by TRICARE, as most services associated with the examination are covered under any circumstance; and if a claim from a health care facility is submitted with the appropriate procedure code, then the claim would then be paid. What was not being cost-shared were the examinations to gather information for the justice system. In a civilian facility, the victim’s private insurance should not be billed for the cost of the examination. Pursuant to the Federal Victims of Crime Act (VOCA), the primary payer is a Federal or federally funded program (such as Medicare, Medicaid, TRICARE or the Department of Veterans Affairs). A reimbursement request from a provider, under the VOCA, should only be submitted for a victim who is not covered by a Federal or federally funded program. This final rule amends the regulation to ensure that forensic examinations following sexual assault or domestic violence are specifically listed as a covered benefit under TRICARE. This rule applies to services provided on or after October 17, 2006, the effective date of the NDAA for FY 2007.

II. Review of Public Comments

We provided a 60-day comment period on the proposed rule which was published in the Federal Register on July 7, 2008 (73 FR 38348–38350). No comments were received.

III. Regulatory Procedures

Executive Order 12866, “Regulatory Planning and Review”

Executive Order 12866 requires a comprehensive regulatory impact analysis be performed on any economically significant regulatory action, defined as one that would result in an annual effect of $100 million or more on the national economy or which would have other substantial impacts. This final rule is not an economically significant regulatory action, and it has been certified that it will not have a significant impact on the national economy.


Public Law 96–354, “Regulatory Flexibility Act” (RFA) (5 U.S.C. 601), requires each Federal agency to prepare a regulatory flexibility analysis when the agency issues a regulation which would have a significant impact on a substantial number of small entities. This final rule is not an economically significant regulatory action, and it has been certified that it will not have a significant impact on a substantial number of small entities. Therefore, this final rule is not subject to the requirements of the RFA.

Public Law 96–511, “Paperwork Reduction Act” (44 U.S.C. Chapter 35)

This rule does not contain a “collection of information” requirement, and will not impose
Accordingly, 32 CFR part 199 is amended as follows:

PART 199—[AMENDED]

1. The authority citation for part 199 continues to read as follows:

2. Section 199.4 is amended by adding paragraph (e)(27) to read as follows:

   §199.4 Basic program benefit.
   * * * * *

   (e) * * * *

   (27) TRICARE will cost share forensic examinations following a sexual assault or domestic violence. The forensic examination includes a history of the event and a complete physical and collection of forensic evidence, and medical and psychological follow-up care. The examination for sexual assault also includes, but is not limited to, a test kit to retrieve forensic evidence, testing for pregnancy, testing for sexually transmitted disease and HIV, and medical services and supplies for prevention of sexually transmitted diseases, HIV, pregnancy, and counseling services.

   Dated: July 14, 2009.

   Patricia L. Toppings, 
   OSD Federal Register Liaison Officer, 
   Department of Defense.
   [FR Doc. E9–17060 Filed 7–16–09; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 242

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 100


Subsistence Management Regulations for Public Lands in Alaska; Makhnati Island Area

AGENCIES: Forest Service, Agriculture; Fish and Wildlife Service, Interior.

ACTION: Final rule; correction.

SUMMARY: This document corrects 36 CFR 242.3 and 50 CFR 100.3 of the subsistence management regulations for public lands in Alaska, subpart A, Makhnati Island Area, which were published in the Federal Register of August 24, 2006. That rule, which became effective September 25, 2006, inadvertently omitted 190 acres of the Makhnati Island Area which was withdrawn for use by the Federal Government in Executive Order 8216 (July 25, 1939). Executive Order 8216 was not rescinded until after statehood, so the submerged land did not transfer to the State at statehood. Since this submerged land is not included in any other withdrawal, reservation, or administrative set aside, the marine submerged lands, including any filled lands owned by the United States, are under the administration of the Bureau of Land Management and are included within the jurisdiction of the Federal Subsistence Management Program.

Because this rule relates to public lands managed by an agency or agencies in both the Departments of Agriculture and the Interior, identical text is incorporated into 36 CFR part 242 and 50 CFR part 100.

Administrative Procedure Act

We find good cause to waive notice and comment on this correction, pursuant to 5 U.S.C. 533(b)(B), and the 30-day delay in effective date, pursuant to 5 U.S.C. 553(d). Notice and comment are unnecessary because this correction is a minor, technical change in the description of the area already under Federal jurisdiction. The substance of the regulations remains unchanged. Therefore, this correction is being published as a final rule and is effective upon publication.

List of Subjects

36 CFR Part 242

Administrative practice and procedure, Alaska, Fish, National forests, Public lands, Reporting and recordkeeping requirements, Wildlife.

50 CFR Part 100

Administrative practice and procedure, Alaska, Fish, National forests, Public lands, Reporting and recordkeeping requirements, Wildlife.

Accordingly, we amend title 36, part 242, and title 50, part 100, of the Code of Federal Regulations as follows:

PART 242—SUBSISTENCE MANAGEMENT REGULATIONS FOR PUBLIC LANDS IN ALASKA

1. The authority citation for both 36 CFR part 242 and 50 CFR part 100 continues to read as follows:


2. Amend § 3.3 by revising paragraph (b)(5) as follows: