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**White Paper – A Briefing on
Military Retirees their Dependents and Survivor's Health Care
October 2011**

A. An outline of the history of military retiree their dependents and survivors health care.

1. US Code by using the words "shall provide" authorized and established free medical care for military retirees and their dependents at Military Treatment Facilities (MTFs) on a space available basis between the early 1940's and December 1956.
 - a. Generally provided and relied upon by retirees and their dependents at major military installations until the 1970 -1980 time frame when an increase in the military retiree population and subsequent Base Realignment and Closure (BRAC) mandates were enacted.
 - b. A major percentage of military retirees settle near military bases to take advantage of retiree benefits, particularly the promise of free medical care.
 - c. With the advent of BRAC, and downsizing military medical systems, and military medical professionals, starting in the 1980s, most military retiree health care at MTFs became unavailable.
2. In December 1956, Congress changed the wording in US Code as it pertains to retiree health care to read: "may provide free medical care at the availability of space and facilities and capabilities of Medical staff."
 - a. This had no immediate noticeable effect on free medical care at major military installations as the free service continued and Congress provided funding in military health care budgets to provide for military retirees and their dependents.
 - b. All military branches continued to make the promise of free medical care to enhance enlistments and retention until 1992, stating that this was deferred compensation for past services.
 - c. During 1956 all active duty personnel started paying into Social Security that subsequently made them eligible for Medicare at age 65.
3. In 1966, Congress enacted the Civilian Health and Medical Program of the United States (CHAMPUS) while at the same time ceased funding to provide care for military retirees at Military Treatment Facilities (on base medical service).
 - a. CHAMPUS was a medical insurance program for military retirees and their dependents, similar to MEDICARE, requiring co-payments.
 - b. Many insurance companies, particularly through service organizations, offered supplemental health care policies to CHAMPUS that were available for purchase by military retirees.
 - c. Some MTFs at major installations continued, on an ever decreasing basis, to provide free health care.
4. In 1994 Congress enacted law to establish the military TRICARE health system providing three levels of medical insurance for active duty, their dependents and military retirees and their dependents under age 65.
 - a. Military retirees and their dependents age 65 and over were excluded from military health care insurance. They were eligible for Medicare only. The promised free health care became nonexistent for those ages 65 and over.
 - b. In 1998 at the direction of DOD, the MTF at MacDill AFB, Tampa, Florida, implemented a trial program to provide medical care to military retirees age 65 and over in the immediate area through a lottery. Absurd as it sounds; over 5,000 age 65 and over military retirees and their widows in the vicinity voluntarily had their names placed in a large rotary screened drum where over the course of 5 hours 2,000 "lucky" names were drawn. The "winners" were authorized to use MacDill AFB medical facilities to get the free medical care they were promised and earned for 20 or more years of service. The other "unlucky" names in the rotary drum, plus all other over age 65 military retirees and their dependents not fortunate enough to live near the rare military treatment facilities accepting retirees, continued to be denied the promised healthcare.

B. The Promise of Free Medical Care.

1. Military recruiters and retention personnel made the promise of free medical care continually from the 1940's to 1992 orally and in print.
 - a. The active duty chain of command from the Secretaries of Defense down through unit leaders made the promise.
 - b. Major Commands and Unit Commands established Officer and Non Commissioned Officer retention positions with instruction to make the promise to entice reenlistment and a commitment to make the military a career. More so than basic recruiting, it was the retention of trained personnel that was the goal of the promise of free health care.
 - c. The standard wording was; "Your pay is substandard as compared to civilian pay, but you are earning as a form of delayed pay, lifetime free medical care for you and your dependents for as long as you live."
 - d. The U.S. Government saved billions of dollars in recruiting and particularly training costs as thousands of trained and qualified military members believed this promise and chose to make military service a career.

C. The Lawsuits Seeking Redress of the Broken Promise

1. In 1996 lawsuits were filed by military retirees seeking redress for those military retirees in the service prior to December 1956 (WWII and Korean War Retirees) who entered the service when US Code stated MTFs "shall provide" free medical care. Among the cases filed the one by The Coalition of Retired Military Veterans (CORMV) was ruled against at the lowest federal court level, that ruling was not appealed. Another, "The Class Act Lawsuit" led by retired Colonel Bud Day, (USAF Ret) MOH, ruled against at the lowest federal court level was appealed and advanced.
 - a. The U.S. Court of Appeals in Washington, DC heard the case with its eventual findings allowed to stand by the United States Supreme Court.
 - b. Initially ruled unanimously in favor of the retirees by a three member sitting of the court.
 - c. Appealed by the government and heard by the full en banc court of 13 judge's ruling in a 9 to 4 decision in favor of the government based upon among other legal findings these main points:
 - (1) Congress never authorized the funding of free health care for military retirees and therefore never authorized making the promise.
 - (2) Military members do not have a contract with the government when entering military service.
 - d. The Court ruled that all branches of the military did, orally and in print promise free medical care for life upon retirement; a promise military retirees relied on, but those making the promise had no authority to do so.
 - (1) Dissenting Judges found the government breached a contract with military retirees for which only Congress can provide relief.
 - (2) They found that military retirees are paying twice for their medical care, once in low wages and again in having to pay for the free health care promised.
 - (3) They also found that Congress in allocating funding of military health care and through its oversight should have known the promise was being made.
 - e. The Library of Congress through its Congressional Research Service Reports mislead members of Congress by repeatedly ignoring the findings of the Appeals Court in several of their publications on military retiree health care by denying the promise was made and using such words as "some military retirees think they were promised free health care."

D. The Military Retiree Healthcare Reclamation Group

- 1. In 2001 a group of military retirees assembled a white paper, over 200 pages of detailed analysis outlining the faults in the TRICARE healthcare system. This document was provided to every member of Congress in printed form indicating priorities of the military retiree community for action by Congress in its 2002 session. Among its proposals was a request to Congress to enact legislation to authorize the Federal Employee Health Benefit Plan (FEHBP) as an option to all military retirees and their dependents on a subsidized premium basis.
- 2. Prior to the FEHBP proposal in D1 above, a trial program in the Los Angeles, CA area offering the option of FEHBP in lieu of TRICARE programs to military retirees and their dependents was declared a failure because of lack of interest. The trial option was of limited duration, poorly advertised, with no subsidized premiums for FEHBP offered.
- 3. Other than the trial period in 2 above, Congress failed to act on the priorities in the White Paper, having enacted Tricare for Life in its 2000 session.

E. The TRICARE Programs – Coverage Cost Comparisons

(NOTE: For comparison purposes only – contact nearest TRICARE Office for updated and accurate information)

Note: Allowable charges are based on Medicare payment schedules. Negotiated fees use Medicare approved charges as a base line and is coordinated with the TRICARE Management Authority.

BENEFITS	TRICARE STANDARD	TRICARE EXTRA	TRICARE PRIME	TFL W/MEDICARE Part B
Annual Enrollment Fee	None	None	\$230 individual \$460/family	Medicare Part B Premium
Provider Visits	25% of allowable charge	20% of negotiated fee	\$12	0
Emergency Room visit	25% if allowable charge	20% of negotiated fee	\$30	0
Annual Deductible	\$150/individual \$300/family	\$150/ Individual \$300/family	None	None
Eyeglasses	Not Covered	Not Covered	Not Covered	Not Covered
Catastrophic cap – out of pocket	\$3,000	\$3,000	\$1,000	N/A
Skilled nursing facility	\$250 per diem cost share or 20% if cost share total whichever is less plus 20% cost share of separately billed charges	\$11/day minimum \$25 per admission. No separate copayment for separately billed professional charges	\$11/day minimum \$25 charge per admission	0
Inpatient Cost Share	Lesser of \$535/day of 25% of billed charges plus 25% if allowable professional fees	Lesser of \$250/day or 25% of negotiates charges plus 20% of negotiated professional fees	\$11/day (minimum \$25 charge per admission, no separate copayment for separately billed professional charges	0

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- 1. TRICARE Reserve Select provides TRICARE Extra or Standard option to most members and their dependents of the National Guard and Reserve Forces (requires monthly premium payments).
- 2. Dental care is provided in all TRICARE programs through retiree purchase of TRICARE associated insurance requiring monthly premium payments. Coverage is similar to standard dental insurance plans.

F. TRICARE for Life (TFL) for Military Retirees and their Dependents over age 65.

1. Congress enacted TRICARE for Life as an entitlement in 2000 to become effective in October 2001.
 - a. Provided the Basic TRICARE Standard program as a supplemental insurance to Medicare.
 - b. Requires retiree and dependents over age 65 to enroll in and pay premiums for Medicare Part B.
 - c. Under the accrual accounting system OMB directed DOD to pay into a fund for future TFL eligible retirees based on present active forces size. Those retired prior to 2003 TFL healthcare is funded by the Treasury.
 - d. Government claims this satisfies the promise of free health care even though it costs at minimum Medicare Part B premiums (\$2,313.60/yr for retiree and wife in 2011).

G. The Uniformed Services Family Health Plan (USFHP)

1. Congressionally authorized, civilian operated health care system under TRICARE management with network of providers offering TRICARE Prime health care to all military retiree beneficiaries, including dependents, regardless of age. Providers are centered on Public Health Service hospitals in each area providing patient care.
2. Limited to three areas in the country: (1) Portions of the northeast from northern Virginia to southern Maine, (2) the Houston, TX area and (3) a portion of northwest Washington State.
3. Offered as an option to other TRICARE programs, users cannot use both TRICARE coverage, and USFHP coverage or TRICARE prescription drug coverage. Prescription drug coverage is provided by USFHP.

H. Prescription Drugs for Military Retirees and Their Dependents.

1. Prescription drugs at on base MTFs are dispensed free of charge to military retirees and their families, if available and if user has no other prescription drug insurance coverage than TRICARE.
2. A Military Mail Order Pharmacy (MOP) benefit in all TRICARE programs (except USFHP enrollees) provides prescription drugs at a reduced cost for a 90-day supply.
3. A 30-day supply source at this same reduced cost can be obtained from TRICARE approved civilian pharmacies.

I. Military Retirees and the VA Health Care System.

1. All military retirees are veterans and therefore eligible for VA health care with restrictions determined by health issues attributed to service connection causes and/or or routine health issues. In a multi - priority numbered eligibility system, those with routine health issues not service connected and VA rated below 50% service connection are means tested that may require co-payments. Health care and medications are free to all veterans rated with service connected health issues of 50% and above. Prescription drugs will only be filled for VA physician written prescriptions.
2. Of the eligible veterans rated in the lowest tiers (7 & 8) the majority are denied access to VA health care.
3. CHAMPVA is a health care system administered by the VA, similar to DOD's TRICARE Prime. It provides health care for the spouse or children of a veteran permanently service connected disabled or who died of VA rated service connected disability.
4. Military retirees and their dependents or anyone authorized any TRICARE program are not authorized CHAMPVA.

J. Military Retiree Health Care Costs under Public Scrutiny

1. In 2004 the cost of the earned military retiree TRICARE and TRICARE for Life came under public scrutiny with the publication of "Filling the Ranks –Transformation of the US Military System" and in editorials in major news outlets authored by Cindy Williams (a mathematics PHD – not the movie/TV star of the Laverne and Shirley TV Show).

2. She is the Principle Research Superintendent of the Securities Studies Program at MIT and past Assistant Director of the Congressional Budget Office when over age 65 retirees were denied military health care in 1995 and was a member of the senior executive services in the office of SECDEF.
3. In her publications she recommends higher user costs for all TRICARE programs and a total revamping of the military retirement system.
4. Many of her recommendations are now, in October 2011, being included in the recommendations of the debt reduction commissions and are "on the table" as Congress addresses the debt crisis.

K. The Problems with TRICARE Programs

1. TRICARE Program payments are based on Medicare approved costs that are on average 18% lower than other medical insurance payments.
 - a. All TRICARE programs are directly affected by the amount Medicare determines for medical services (Medicare approved charges). Congress, in an attempt to contain costs, created the Sustained Growth Rate Formula (SGR) that schedules periodic reductions in Medicare payments. The formula has proven to be flawed and Congress has temporarily delayed cuts by last minute "fixes" that have allowed the size of the cuts to accumulate. (A 29.4 % reduction in payments to providers under the formula is scheduled to take effect on 1 January 2012 if not "fixed" by Congress). TRICARE payments to providers will reflect these reductions.
 - b. Because of these cuts many providers are opting out of the Medicare program. Military retirees and their dependents are finding it difficult to find providers willing to accept TRICARE covered patients and particularly Medicare/TFL covered patients.
 - c. **The yearly attacks on the cost of retiree medical care by DOD and various committees recommending higher user costs and enrollments fees for military retirees and their dependents medical care overlooks the promise made and the money the government saved foisting substandard wages on the military while the military services were making the promise of free health care. Overlooked is that health care premiums were paid up front through years of low pay, demanding, onerous and dangerous duties in military service that no other sector of the population would perform.**
 - d. The proposal considered in recent years to force eligible military retirees to choose either VA health care benefits or TRICARE benefits, (prevented from using both) causes great concern that the mindset creating such a proposal has no idea of the overall military health care system and should not be involved in the military health care decision making process.
 - e. The continual clamor for increases in military retiree healthcare user costs uses misleading data to gain support for their recommendations. Using the base year 2000, when over 1,500,000 military retirees and their dependents age 65 and over were excluded from military healthcare to indicate the huge growth in cost ignores the fact that Congress authorized TRICARE for Life as an entitlement, paid from the Treasury that was implemented in 2001. The accounting of this entitlement that DOD is forced to pay into a fund for future retirees provides a major portion of the increases DOD is using to try to force higher healthcare user costs on the military retiree family.
 - f. Committees and DOD comparing civilian health care user cost to military retiree user health costs is disingenuous. Military retirees paid up front in years past for the health care they receive. Additionally, a career in military service to this nation exposed many if these men and women to debilitating diseases no civilian living in this country experiences.
 - g. The lack of uniformity in available TRICARE options is confusing. The highly rated United States Family Health Plan under TRICARE management available in very limited areas of the country that is not available to all military retirees and their dependents raises the question why this plan is not available nationwide?
 - h. There is a very limited number of Military Treatment Facilities (MTF) that still provides retirees health care. In these areas the military retiree population tends to be satisfied with those services while their fellow retirees in other parts of the country are left to struggle with the TRICARE programs available to them. Even with the satisfaction of healthcare provided in MTF's there are

proposals from some budget cutting committees to charge MTF users at the same rate as proposals for increases in TRICARE and TFL costs to other retirees.

- i. The uncertainty of losing a provider or being unable to find a provider due to their opting out of Medicare is demoralizing. This uncertainty leads to the lack of medical care continuity. No Medicare providers – no TFL!
 - j. There is waste in TRICARE management procedures with huge, costly bureaucracies involved in overseeing the programs, many of the higher positions in these entities staffed by retired Pentagon officials that previously were employed in the military health care system. TFL has a double billing payment system with the second payer under costly contract that could be eliminated by Medicare paying its full approved amount up front. These huge overhead costs take from funds allocated by Congress to provide the promised healthcare for 20 or more years in the military.
 - k. Military health care is a vital tool in recruiting and retention of armed forces members. Potential recruits are well aware of the problems military retirees are experiencing with their promised and earned health care.
 - l. It is a disgrace and an insult to those who committed the best years of their lives in defense of this nation that priorities for funding health care go to those who did not earn it (illegal aliens, prisoners, professional welfare recipients, etc) while at the same time insisting military retirees, their dependents and widows pay more for the health care they earned and were promised.**
 - m. The goal of the present administration is to increase user costs to the military retiree community to such an extent that they will be forced into the new health care exchange thereby eliminating all TRICARE programs.**
- L. The military of this country fulfills one of the basic requirements of the Constitution of the United States – it provides for the common defense of the nation. The career military providing that defense are asked to perform duties and bear sacrifices that no other citizen will accept. Of necessity, to recruit and retain the career military force special benefits for their services must be fully funded. Primary among those benefits is life time health care.

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