

§ 1614.407 Civil action: Title VII, Age Discrimination in Employment Act, Rehabilitation Act, Genetic Information Nondiscrimination Act, and Pregnant Workers Fairness Act.

A complainant who has filed an individual complaint, an agent who has filed a class complaint or a claimant who has filed a claim for individual relief pursuant to a class complaint is authorized under title VII, the ADEA, the Rehabilitation Act, Genetic Information Nondiscrimination Act, and the Pregnant Workers Fairness Act to file a civil action in an appropriate United States District Court:

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- 29. Section § 1614.503(g) is revised to read as follows:

§ 1614.503 Enforcement of final Commission decisions.

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(g) *Notification to complainant of completion of administrative efforts.* Where the Commission has determined that an agency is not complying with a prior decision, or where an agency has failed or refused to submit any required report of compliance, the Commission shall notify the complainant of the right to file a civil action for enforcement of the decision pursuant to Title VII, the ADEA, the Equal Pay Act, the Rehabilitation Act, the Genetic Information Nondiscrimination Act, or the Pregnant Workers Fairness Act and to seek judicial review of the agency's refusal to implement the ordered relief pursuant to the Administrative Procedure Act, 5 U.S.C. 701 *et seq.*, and the mandamus statute, 28 U.S.C. 1361, or to commence de novo proceedings pursuant to the appropriate statutes.

- 30. Section § 1614.702(j) is revised to read as follows:

§ 1614.702 Definitions.

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(j) The term basis of alleged discrimination refers to the individual's protected status (*i.e.*, race; color; religion; reprisal; sex; national origin; Equal Pay Act; age; disability; genetic information; or pregnancy, childbirth, or related medical conditions). Only those bases protected by Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e *et seq.*, the Equal Pay Act of 1963, 29 U.S.C. 206(d), the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. 621 *et seq.*, the Rehabilitation Act of 1973, as amended, 29 U.S.C. 791 *et seq.*, the Genetic Information Nondiscrimination Act, 42 U.S.C. 2000ff *et seq.*, and the Pregnant Workers Fairness Act, 42

U.S.C. 2000gg *et seq.*, are covered by the Federal EEO process.

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PART 1626—PROCEDURES—AGE DISCRIMINATION IN EMPLOYMENT ACT

- 31. The authority citation for part 1626 continues to read as follows:

Authority: Sec. 9, 81 Stat. 605, 29 U.S.C. 628; sec. 2, Reorg. Plan No. 1 of 1978, 3 CFR, 1978 Comp., p. 321.

- 32. Section 1626.17(a)(2) is revised to read as follows:

§ 1626.17 Notice of dismissal or termination.

(a) * * *

(2) Where the charge has been filed under the ADEA and title VII, the Americans with Disabilities Act (ADA), the Genetic Information Nondiscrimination Act (GINA), or the Pregnant Workers Fairness Act (PWFA), the Commission will issue a Notice of Dismissal or Termination under the ADEA at the same time it issues the Notice of Right to Sue under title VII, the ADA, GINA, or the PWFA, in accordance with 29 CFR 1601.28.

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DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 161

[Docket ID: DOD–2015–OS–0069]

RIN 0790–AJ37

Identification (ID) Cards for Members of the Uniformed Services, Their Dependents, and Other Eligible Individuals

AGENCY: Office of the Under Secretary of Defense for Personnel and Readiness (OUSD(P&R)), Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD is finalizing eligibility requirements for ID cards issued to uniformed service members, their dependents, and other DoD individuals. These cards are used for proof of identity, DoD affiliation, and to facilitate accessing DoD benefits. This rule includes documentation requirements to address the modification of gender in a record consistent with the requirements of Executive Orders “Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual

Orientation,” and “Enabling All Qualified Americans To Serve Their Country In Uniform.” The rule also updates the CFR to match the revised contents of various internal DoD policy issuances and National Institute of Standards and Technology (NIST) Federal Information Processing Standards (FIPS).

DATES: This rule is effective on March 15, 2024.

FOR FURTHER INFORMATION CONTACT: Robert Eves at 571–372–1956; email: robert.c.eves.civ@mail.mil.

SUPPLEMENTARY INFORMATION:

Authority

Authorities for this rule include 5 United States Code (U.S.C.) 5703 and 10 U.S.C. 1044a, 1061–1064, 1072–1074, 1074a–1074c, 1076, 1076a, 1077, 1095 (k) (2), 1408(H), and chapter 1223. These authorities provide members of the Uniformed Services (active duty, Reserve, or retired members) and their spouses and dependents certain benefits and privileges. Title 18 U.S.C. 499, 506, 509, 701, and 1001 address penalties, fines and imprisonment for unauthorized reproduction of ID cards. ID cards authorize eligible individuals (to include specific categories of civilians and contractors) certain benefits and privileges to include health care; use of commissary; exchange; and morale, welfare, and recreation facilities.

Background

On January 6, 2014, the DoD published an interim final rule (79 FR 708–747) on the policies and procedures for issuing DoD ID cards based on a proposed rule which published on August 6, 2010 (75 FR 47515–47519) and received no public comment. In addition, because of the June 26, 2013, U.S. Supreme Court decision that held section 3 of the Defense of Marriage Act unconstitutional, the rule also extended benefits to same sex spouses of Uniformed Service members and DoD civilians. As a result of an August 13, 2013, Secretary of Defense Memorandum, “Extending Benefits to Same-Sex Spouses of Military Members,” the Secretary of Defense directed that, “. . . spousal and family benefits, including identification cards, will be made available to same-sex spouses no later than September 3, 2013.”¹

¹ Secretary of Defense Memorandum, “Extending Benefits to Same-Sex Spouses of Military Members,” available upon email request to: dodhra.mc-alex.dmdc.mbx.dod-id-card-policy@mail.mil.

The Department now construes the words “spouse” and “marriage” to include same-sex spouses and marriages, eliminating the need for the proposed addition of same sex partners to the larger population of individuals who could receive ID cards. Five comments were received on the 2014 interim final rule.

A second interim final rule was published on October 27, 2016 (81 FR 74874–74916) amending the rule published on January 6, 2014. In the second rule, DoD amended its ID card policy to include documentation needed for the modification of gender in a record for retirees and family members.

The second rule also made changes due to revisions of several internal DoD policy issuances and NIST FIPS. These revisions included.

- Aligning policy for the implementation of Homeland Security Presidential Directive (HSPD) 12 within DoD with the most current version of FIPS 201–3, “Personal Identity Verification (PIV) of Federal Employees and Contractors” (available at <https://dx.doi.org/10.6028/NIST.FIPS.201-3>).

- Aligning the benefits for commissary, exchange, and morale, welfare, and recreation (MWR) with the current versions of the following:

1. DoD Instruction 1015.10, “Military Morale, Welfare, and Recreation (MWR) Programs” (available at <https://www.esd.whs.mil/Portals/54/Documents/DD/issuances/dodi/101510p.pdf>).

2. DoD Instruction 1330.17, “Armed Services Commissary Operations” (available at <https://www.esd.whs.mil/Portals/54/Documents/DD/issuances/dodi/133017p.pdf>), and

3. DoD Instruction 1330.21, “Armed Services Exchange Regulations” (available at <https://www.esd.whs.mil/Portals/54/Documents/DD/issuances/dodi/133021p.pdf>).

- Providing procedures and defined acceptable documentation for enrollment and eligibility verification, as necessary, for DoD ID card issuance as described in DoD Manual 1000.13 Volume 3, which will be published and made available at <https://www.esd.whs.mil/Directives/issuances/dodm/>. This manual will identify:

1. The eligibility documentation requirements for all DoD ID card eligible populations, and

2. Documentation requirements for the correction of Defense Enrollment Eligibility Reporting System (DEERS) records, to include changing one’s gender marker as reflected in DEERS.

Thirty comments were received on the second interim final rule. This final rule responds to all comments received

on both interim final rules. Responses are as follows.

Comment: One commenter applauded the Department’s willingness to implement changes to DoD identification cards so promptly following the Supreme Court’s decision in *United States v. Windsor*.

Response: DoD appreciates the comment.

Comment: One commenter urged the Department to expand its definition of “child” at 32 CFR 161.3 to include a child of a parent standing *in loco parentis*, where *in loco parentis* means a parent with day-to-day responsibilities to care for and financially support a child, but without a legal or biological relationship to the child. The commenter argued that including *in loco parentis* language within the definition of “child” would ensure children of all Lesbian, Gay, Bisexual, Transgender, and Queer (LGBTQ) parents can access dependent benefits, even in states where the LGBTQ parent and child cannot create a legally recognized relationship. The commenter proposed draft language to that effect.

Response: Because DoD’s definition of “child” reflects the definition provided by 10 U.S.C. 1072, DoD declines to adopt the suggestion.

Comment: One commenter argued that the interim final rule issued by the DoD regarding spousal identification cards ignored the authority of states to define and regulate marriage. Specifically, by determining the marital status of service members based on the laws of the place a marriage took place (“state of celebration”) rather than the laws of service members’ legal residency (“state of domicile”) (§ 161.3

Definitions; p.713), the commenter noted that DoD created a situation in which certain same-sex couples would be deemed “married” for some federal purposes but unmarried under state law (if they are domiciled in one of thirty-three states that do not recognize such unions). The commenter argued that this approach effectively imposed a new federal definition of marriage on the super-majority of states, undermining state laws on marriage and violating the principles of Executive Order 13132, “Federalism” (64 FR 43255; Aug. 4, 1999). That Executive order requires any Federal agency considering a regulation with considerable impact on the policy making authority of the states to consider the constitutional relationship between levels of government and to defer to the powers reserved to the states and the people. The commenter urged DoD to revise its final rule to connect determinations of marital status

to the laws of a service member’s state of domicile.

Response: Subsequent to the U.S. Supreme Court decision in *United States v. Windsor*, 133 S. Ct. 2675 (2013), which the commenter cited, the U.S. Supreme Court issued another decision on June 26, 2015, *Obergefell v. Hodges*, 135 S. Ct. 2584 (2015), which held that States must license and recognize marriages between two people of the same sex on the same terms and conditions as marriages between two people of the opposite sex. Thus, all states are required to license a marriage between two people of the same sex and to recognize a marriage between two people of the same sex when their marriage was lawfully licensed and performed out-of-State. The definition of spouse as it appears in this rule complies with current law and will not be revised.

Comment: One commenter addressed the following seven aspects of the proposed interim final rule:

1. The definition of the United States did not include American Samoa, American Formosa, the U.S. Virgin Islands, the Commonwealth of the Northern Marianas, or the Compact territories for which the United States has defense duties (Palau, Marshall Islands, Micronesia) and the treaty territories for which the United States has defense duties (Tuvalu, Kiribati, Tokelau, Banaba)

2. “Married” was not defined, nor was “marriage”.

3. “Gender” was not defined, and the commenter believed that the phrase “regardless of gender” could refer to gender as conventionally understood, being a reciprocating legal fact under state common law. Also, the commenter argued that “bona fide” should be added before legally married to make clear that the jurisdictional requirements for a legal marriage need to be satisfied before one could meet that definition.

4. State was not defined to include American Samoa, American Formosa, the U.S. Virgin Islands, the Commonwealth of the Northern Marianas, or the Compact territories for which the United States has defense duties (Palau, Marshall Islands, Micronesia) and the treaty territories for which the United States has defense duties (Tuvalu, Kiribati, Tokelau, Banaba).

5. State in the definition of “Spouse” excluded foreign territory, which the commenter argued was done without rational basis.

6. The rule had significant federalism implications beyond those necessitated by *United States v. Windsor*.

7. The definitions of unmarried did not include never married.

Response: Responses to each individual point above follow:

1. The definition of U.S. territories and possessions found in 8 U.S.C. 1101(a)(38) (<https://uscode.house.gov/view.xhtml?req=granuleid:U.S.C.-prelim-title8-section1101&num=0&edition=prelim>), and this rule includes Puerto Rico, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the U.S. Virgin Islands. It does not include independent countries or nations, nor territories of other countries.

2. The definitions of “married” and “marriage” are defined in a standard dictionary; DoD does not view it as necessary to adopt definitions of these words in this rule.

3. DoD included the phrase “regardless of gender” in the definition of spouse to reflect the Supreme Court’s decisions in *United States v. Windsor* and *Obergefell v. Hodges*. This ensured that the same benefits are available to all spouses, regardless of whether they are in same-sex or opposite-sex marriages. DoD recognizes all marriages that are valid in the place of celebration. Documentation requirements necessary to enroll a spouse in DEERS identified in § 161.23(b)(2) of Subpart D provide jurisdictional certification of a legal marriage, making it unnecessary to modify legally married with “bona fide.”

4. DoD used the definition of State found in 10 U.S.C. 10001, which includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, and Guam.

5. “State of residence” as used in the context of DoD’s definition of “spouse”—“A person legally married to a current, former, or retired uniformed service member, eligible civilian employee, or other eligible individual in accordance with subpart C of this part, regardless of gender or State of residence,” ensures that DoD recognizes all marriages that are valid in the place of celebration. This precludes denying DEERS enrollment of a spouse based on current residency, to include residents of foreign territories and countries, when the location where the spouse resides does not recognize a legal marriage from another jurisdiction.

6. The Supreme Court decision in *Obergefell v. Hodges* of June 26, 2015, requires all States to license a marriage between two people of the same sex and to recognize a marriage between two people of the same sex when their marriage was lawfully licensed and performed out-of-State.

7. For the purpose of extending benefits to widows, widowers, and former spouses of sponsors, the Department relies on its definitions of “unremarried” and “unmarried.” The Department does not need to include “never married” in its definitions as an individual who has never been married to a sponsor would not be eligible for a DoD ID card or benefits.

Comment: One commenter urged DoD to identify DoD military and civilian law enforcement personnel as law enforcement officers on their DoD issued ID cards, which it contended was required by the law enforcement officer’s safety act.

Response: The military ID cards issued by the Department to service members comply with requirements established by Federal Law, the Geneva Conventions, and HSPD–12/Federal Information Processing Standards (FIPS) Publication (Pub) 201–3. Displaying an individual’s law enforcement status on a DoD issued ID Card is not supported by the information currently retained in the Defense Enrollment Eligibility Reporting System database. Compliance with the Law Enforcement Officers Safety Act is addressed by DoD Instruction 5525.12, “Implementation of the Amended Law Enforcement Officers Safety Act of 2004 (LEOSA),” (available at: <https://www.esd.whs.mil/Portals/54/Documents/DD/issuances/dodi/552512p.pdf>), which requires that a qualified law enforcement officer or qualified retired law enforcement officer carry photographic identification issued by the DoD Component for which the individual is employed or from which the individual separated from service as a law enforcement officer.

Comment: One commenter urged DoD to ensure consistent definitions are being used across all ID card parts and subparts.

Response: Consistent with that comment, DoD deleted the definition of “Foreign national civilians and contractors” in the rule; the existing definition of “Foreign affiliate” will suffice.

Comment: One comment noted that the rule uses “in the United States” and “outside the United States” and not CONUS, OCONUS, asking whether such usage should be incorporated into the interim final rule.

Response: DoD changed references from “CONUS” to “United States and U.S. territories and possessions” in: (1) § 161.7(d)(1)(ii) of Subpart B; (2) Appendix 1 to § 161.7 of Subpart B paragraphs (d)(2)(i) and (vi); and (3) paragraph (c)(2) of Appendix 2 to § 161.7 of Subpart B. Paragraphs (d)(2)(i) and (vi) of Appendix 1 to § 161.7 of

Subpart B have been deleted in response to a subsequent public comment and the remaining paragraphs have been renumbered. Deletion of paragraph (d)(2)(vi) requires deletion of § 161.20 Benefits for civilian personnel Table 35 to Subpart C of Part 161.

Comment: One comment urged DOD to ensure the updated rule removed all references to Form I–9.

Response: The Department replaced the Form I–9 List of Acceptable Documents with the FIPS 201–3 list of primary and secondary identity documents for the purposes of identity vetting for ID card issuance in the amended interim final version of this rule. That version did not replace all references to the Form I–9. DoD has revised Table 36 to Subpart D of Part 161 and Table 37 to Subpart D of Part 161, replacing “U.S. Citizenship and Immigration Services Form I–9, (Lists of Acceptable Documents)” with “Federal Information Processing Standards (FIPS) Publication (Pub) 201–3, Personal Identity Verification (PIV) of Federal Employees and Contractors, Identity Proofing and Registration Requirements primary and secondary identity source documentation.”

Comment: One comment asked DoD to clarify whether foreign born individuals should be allowed to use an ID card issued by their Federal, state, or local government.

Response: DoD believes that such an ID card may be used as secondary identification and accordingly inserted in § 161.7(d)(1)(ii) of Subpart B the following sentence: “A foreign government issued ID with photograph may be used as a secondary identity document for ID card issuance.”

Comment: One comment said that section 161.7(e)(2)(ii)(B) does not read well and suggested changing the language to “issued to the dependents of retired Service members who are either 75 years of age . . .”

Response: DoD changed § 161.7(e)(2)(ii)(B) to read “issued to the dependents of retired Service members who are either 65 years of age . . .,” which implements a recently approved policy change to the age at which DoD will issue an indefinite ID to the dependents of retirees.

Comment: One comment asked whether expired DoD ID cards are allowable forms of ID for ID card renewal and urged DoD to accept them.

Response: DoD revised § 161.7(e)(3) of Subpart B to add “An expired DoD ID card is an acceptable secondary form of ID for non-Common Access Card (CAC) ID card renewal or reissuance if identity document verification is required”

following the first sentence in the paragraph.

Comment: One comment asked DoD to clarify what happens if biometric information cannot be verified for ID card renewal.

Response: DoD added the following sentence to the end of § 161.7(e)(3) of Subpart B: “If biometric information cannot be verified, the requirements for initial issuance shall apply or a temporary card may be issued in accordance with paragraph (e)(4) of this subpart.”

Comment: One comment urged DoD to consider allowing civilians to retain their card when transferring from one agency to another to ensure optimization and cost savings.

Response: DoD agrees with this suggestion. To make this clear, DoD added, “with exception of transferring DoD civilian employees” to the end of the first sentence of § 161.7(g)(2) of Subpart B. DoD also added the following immediately after the amended first sentence in paragraph 161.7(g)(2): “Civilian employees transferring from one DoD Component to another as civilian employees (e.g., Army civilian to Air Force civilian) will be permitted to retain their CAC during their transition for up to 30 days in accordance with DoD Chief Information Officer and Acting USD(P&R) joint memorandum, “Common Access Card Retention for Department of Defense Civilian Employees when Transferring Between Department of Defense Components.”

Comment: One comment asked whether there is any difference between non-DoD federal employees and non-DoD government agency civilians and, if there is, for any additional requirements for non-DoD civilian personnel to be minimized.

Response: There is no difference between non-DoD Federal employees and non-DoD government agency civilians. To eliminate confusion, DoD changed all references to “non-DoD Federal employees” in Subparts C and D to read “Non-DoD Government Agency Civilian Personnel.” DoD has also revised paragraph (c)(2)(ii)(A)(3) of Appendix 1 to § 161.7, replacing “Non-DoD Federal employees” with “Non-DoD Government Agency Civilian Personnel” in the first sentence. The second sentence requiring DoD components to obtain Defense Human Resources Activity approval prior to sponsorship of Non-DoD Government Agency Civilian Personnel remains a necessary requirement.

Comment: One comment noted that the interim final rule stated, “Individuals who have a established

relationship between the U.S. Government and a State, a local government, or other recipient as specified in sections 6303, 6304, and 6305 of title 31, U.S.C.” and suggested that it should say “an established” instead.

Response: DoD replaced “a” with “an” prior to “established” in paragraph (c)(2)(ii)(D)(3) of Appendix 1 to § 161.7 of Subpart B.

Comment: One comment asked whether, in Subpart C, Table 30, civilians residing on an installation should receive an ID and privilege card if there are no benefits printed on the card.

Response: Civilian personnel residing on an installation in the United States eligible for the benefits identified in Table 30 to Subpart C of Part 161 will only receive an Identification card. Table 30 is correct as written, but DoD removed paragraph (d)(2)(i) of Appendix 1 to § 161.7, which stated: “DoD and uniformed services civilian employees (both appropriated and non-appropriated) when required to reside in a household on a military installation within the CONUS, Hawaii, Alaska, Puerto Rico, and Guam.” DoD has redesignated the remaining paragraphs in the final rule.

Comment: Noting a reference to overprints in the interim final rule, one commenter asked whether DoD continues to issue ID cards with overprints.

Response: DoD no longer issues ID cards with overprints, so it removed “(with a “TA” overprint)” from paragraph (l)(2)(iii) of Appendix 1 to § 161.7 of Subpart B.

Comment: One commenter asked whether only former spouses who qualify as DoD beneficiaries receive a DD Form 2765 or other DoD beneficiaries do as well.

Response: Because other beneficiaries also receive a DD Form 2765, DoD revised paragraph (l)(2)(vi) of Appendix 1 to § 161.7 of Subpart B from “Former spouse (that qualify as a DoD beneficiary)” to “DoD beneficiaries (eligible former spouses, widows, widowers, and abused dependents).”

Comment: One comment asked DoD to clarify whether any striping is used on the CAC besides blue for foreign national and green for contractor. The commenter remembered a red stripe being used for first responders and asked whether it was still in use.

Response: FIPS 201–3 requires white striping for government employees, blue for foreign nationals, and green for contractors for the background color behind the name on the PIV. FIPS 201–3 provides for identification of an

emergency response official through the use of an optional footer on the face of the PIV. Previous versions of paragraph (b) of Appendix 2 to § 161.7 reflected the reservation of the red stripe for emergency response officials, but also indicated a red stripe would be used to denote non-U.S. personnel, just as a blue stripe does. To align DoD policy with FIPS 201–3, DoD removed paragraph (b)(2) of Appendix 2 to § 161.7. Paragraph (b)(1) has been redesignated as the second sentence of paragraph (b) introductory text.

Comment: The United Service Organizations, Inc. (“USO”) submitted several comments concerning proposed changes to 32 CFR part 161 as follows. First, the USO recommended changing the title of Table 37 to Subpart C of Part 161 from “Benefits for Full-Time Paid Personnel of the USO and Accompanying Dependents Serving Outside the United States” to “Benefits for Paid Personnel of the USO and Accompanying Dependents Serving Outside the United States” (striking “Full-Time”) because the USO employs several part-time employees, particularly in the European and Pacific Areas of operation, and the current wording excludes those individuals from receiving the proper credentials. Second, the USO recommended changing the title of Table 25 to Subpart D of Part 161 from “Eligibility Documentation Required for USO Area Executives, Center Directors, and Assistant Directors and Accompanying Dependents” to “Eligibility Documentation Required for Paid Personnel of the USO and Accompanying Dependents” because the current wording is obsolete and does not reflect titles or positions used by the USO.

Response: DoD chose to retain the “full-time” requirement in paragraph (l)(2)(vii)(B) of Appendix 1 to § 161.7 of Subpart B, § 161.23(g)(4) of Subpart D, and Table 25 to Subpart D of Part 161 since benefits are not provided to part-time employees of the USO. But DoD agrees with the USO’s second comment about obsolete wording and has corrected the instance in Subpart D cited in the comment, as well as one additional instance of this outdated wording. Specifically, DoD revised paragraph (l)(2)(vii)(B) of Appendix 1 to § 161.7 of Subpart B from “Area executives, center directors, and assistant directors of the United Service Organization, when serving in foreign countries.” to “Full-time paid personnel of the United Service Organization, when serving in foreign countries;” § 161.23(g)(4) of Subpart D from “USO area executives, center directors, and

assistant directors serving outside the United States and outside U.S. territories and possessions and accompanying dependents, must have eligibility verified by documentation shown in Table 25 to this subpart” to “Full-time paid personnel of the USO serving outside the United States and outside U.S. territories and possessions and accompanying dependents must have eligibility verified by documentation shown in Table 25 to this subpart” and Table 25 to Subpart D of Part 161 from “Eligibility Documentation Required for USO Area Executives, Center Directors, and Assistant Directors and Accompanying Dependents” to “Eligibility Documentation Required for full-time paid personnel of the USO and Accompanying Dependents.”

Comment: Another commenter asked whether the rule applied only to area directors and asked DoD to ensure that the final rule accurately reflects USO personnel titles and categories.

Response: See previous comment.

Comment: One comment asked DoD to ensure the consistent use of “spouse” throughout the tables in Subpart C.

Response: DoD changed “Lawful spouse” to “Spouse” in 21 tables in Subpart C.

Comment: Another comment asked DoD to ensure that dependency (50% support) is used consistently throughout Subpart C.

Response: DoD added the 50% support requirement to pre-adoptive child for commissary, exchange, and MWR in Tables 2, 5, 6, and 12 through 20 to Subpart C of Part 161.

Comment: One comment asked whether the phrase “including orphans” should be used in Subpart C, Tables 16–20.

Response: A surviving dependent child’s eligibility for benefits is determined by their relationship to, and the support being provided by, the sponsor at the time of the sponsor’s death. A child’s status as an orphan has no bearing on their benefit eligibility. The phrase “including orphans” is inaccurate and is not supported by Title 10 U.S.C. or DoD policy. DoD removed “(Including Orphans)” from Tables 16 through 19 to Subpart C of Part 161. Table 20 to Subpart C of Part 161 does not contain that terminology.

Comment: One comment asked DoD to remove “or members who died while in a retired with pay status” from § 161.17(a) “Surviving dependents of active duty deceased members” of Subpart C.

Response: DoD agrees that the phrase “or members who died while in a retired with pay status,” which was

found in § 161.17(a) of Subpart C, is not applicable to active duty deceased members, and removed it.

Comment: One comment disagreed with the choice of words “whose death is unrelated to their military service” in § 161.17(d) and Table 19 to Subpart C of part 161. The commenter noted that it is not an official term and arguably blurs the line between reportable status and a line of duty determination. According to the commenter, the dependents of a soldier who dies in a reportable status, even if not in the line of duty, would retain eligibility for a tan teslin ID for the purpose of TRICARE, commissary, Post Exchange (PX), and MWR. But dependents of soldiers who died in a non-reportable status and previously had to turn in their pink teslin ID cards, regardless of the line of duty determination, would now be able to keep the same privileges they had when their Reserve/Guard soldier was alive: PX, Commissary, and MWR only.

Response: DoD agrees with this comment and changed § 161.17(d) of Subpart C and Table 19 to Subpart C of Part 161 from “whose death is unrelated to his/her service” to “who died in a non-reportable status” to clarify that line of duty is not relevant to the determination.

Comment: One comment suggested that in Subpart C, Table 20, Widow or Widower, DoD should change the DC note from 2, 3 to 2, 4.

Response: No change is required as Table 20 to Subpart C of Part 161 of the amended interim final rule has “2, 4” in the DC column.

Comment: One comment opined that the medical benefits for “Parent, Parent-in-law” in Subpart C, Table 20 are incorrect and asked DoD to ensure that all tables have notes for the appropriate beneficiary.

Response: DoD changed note 1 of Table 5 to Subpart C of Part 161 to read “the eligibility for CHC and DC for eligible dependents begins on the same day the sponsor becomes eligible for active duty benefits” rather than “the eligibility for CHC and DC for eligible dependents begins on the first day of the active duty period.” DoD also made the following changes to Tables:

Table 13 to Subpart C of Part 161—Notes for children missing from rule text published in **Federal Register** but included in this version.

Table 15 to Subpart C of Part 161—DoD added note 2, 3 for Commissary, MWR and Exchange to children over 21.

Table 20 to Subpart C of Part 161—DoD changed note 4 to 3 for children commissary.

Table 31 to Subpart C of Part 161—DoD changed note 5 to read “individual” rather than “child”.

Table 32 to Subpart C of Part 161—DoD amended note 6 to include “and dependent on an authorized sponsor for over 50 percent of the child’s support”.

Table 33 to Subpart C of Part 161—DoD amended note 7 to include “and dependent on an authorized sponsor for over 50 percent of the child’s support”.

Table 35 to Subpart C of Part 161—DoD added Foster Child with MWR and Exchange benefits with note 3 for MWR and Notes 1, 3 for Exchange.

Table 36 to Subpart C of Part 161—DoD added pre-adoptive child with notes 1, 6 for direct care and note 6 for Commissary, Exchange, and MWR. Add note 6 with language for pre-adoptive child and renumber remaining notes and table.

Table 36 to Subpart C of Part 161—DoD added medical for Ward with notes, 1, 5.

Comment: One comment asked whether, in Subpart C, Table 22, pre-adoptive children should be receiving benefits for abused dependents.

Response: DoD retained “pre-adoptive” in Table 22 and added “pre-adoptive” to Table 23 to Subpart C of Part 161. Pursuant to 10 U.S.C. 1059, dependent children residing with the member at the time of the dependent abuse are eligible for transitional compensation, to include pre-adoptive children.

Comment: One comment urged DoD to ensure all titles in Subpart C, Table 31, are accurate.

Response: In Table 31 to Subpart C of Part 161, DoD added “or Employed” after “Stationed,” and DoD renamed Table 32 to Subpart C of Part 161, from “Benefits For Non-DoD Government Agencies Civilian Personnel Stationed or Employed Outside the United States and Outside U.S. Territories and Possessions and Accompanying Dependents” to “Benefits For Non-DoD Government Agency Civilian Personnel Stationed or Employed Outside the United States and Outside U.S. Territories and Possessions and Accompanying Dependents.” In Table 32 to Subpart C of Part 161, DoD revised the row from “Non-DoD Civilian Personnel” to “Non-DoD Government Agency Civilian Personnel” and revised the row in Table 33 to Subpart C of Part 161 from “Non-DoD Civilian employee” to “Non-DoD Government Agency Civilian Personnel” for the sake of clarity.

Comment: One comment suggested that DoD delete the phrase “local hire” in Subpart C, Table 31 Note 3, because

it is not applicable. A U.S. citizen assigned overseas cannot be a local hire.

Response: DoD agrees and amended the Tables as follows: In Table 31 to Subpart C of Part 161, DoD amended note 3 to remove “(not a local hire).”

In Table 32 to Subpart C of Part 161, DoD amended note 2 to remove “excluding local hires.”

In Table 33 to Subpart C of Part 161, DoD amended note 2 to remove “excluding local hires.”

In Table 36 to Subpart C of Part 161, DoD amended note 2 to remove, “(not a local hire).”

In Table 37 to Subpart C of Part 161, DoD amended note 2 to remove, “(not a local hire).”

Comment: DoD received a question about whether, in Subpart D, Table 11, there are other means to report the death of an individual besides a death certificate.

Response: To answer this question, DoD added the DD Form 1300, “Report of Casualty,” as an option to report a sponsor’s death to Table 11 to Subpart D of Part 161.

Comment: One commenter asked whether, in Subpart D, Table 17, a notice of eligibility should be an acceptable eligibility document for a sponsor.

Response: DoD removed notice of eligibility (NOE) from Table 17 to Subpart D of Part 161, and the Table Notes.

Comment: One comment supported DoD revising its ID policies to allow transgender civilians to change their gender record in DEERS. The commenter noted that the new provision would be similar to numerous existing federal and state policies for updating official records and identification documents, help protect individuals’ privacy, and avoid unnecessary confusion, embarrassment, and harassment that can be caused when an individual’s record does not match their gender identity and the way they live their everyday life. The commenter recommended three revisions to Table 33 to clarify and simplify the process: (1) replace the term “appropriate clinical treatment” with “gender identity” to clarify the standard for health care provider certifications; (2) accept certifications from the full range of licensed health care providers who are qualified to assess and provide treatment to meet the World Professional Association for Transgender Health’s *Standards of Care*; and (3) omit the requirement for an applicant seeking to update gender identity to justify submission of a healthcare provider certification instead

of a court order or updated legal document reflecting gender identity.

Response: DoD appreciates this comment. DoD did not explain its requirement for a justification statement when submitting a health care provider letter as the alternative to any of the three primary documentation options to support a gender marker change for retirees, dependents, and contractors in the 2016 interim rule. The intent was to mitigate the difference with other Departmental policy issuances addressing gender transition which did not provide an alternative to the three primary documentation options: a State birth certificate reflecting the preferred gender; a certified true copy of a court order reflecting the preferred gender; or a United States passport reflecting the preferred gender. The Department has reviewed the requirement for the health care provider letter with justification statement alternative, as well as whether retention or revision of the requirement to provide documentation to support a gender marker change request, specifically submission of one of the three primary documentation options or the health care provider letter alternative, is compatible with Executive Orders 13988, “Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation,” and 14004, “Enabling All Qualified Americans To Serve Their Country In Uniform,” and the purpose of DEERS. That review included Federal Agencies’ responses to the intent of Executive Order 13988, noting that among others, the Department of State permits an individual to self-select the gender marker to be printed on their passport, and the Social Security Administration permits an individual to self-select their sex on their Social Security number (SSN) record. The Department respects an individual’s right to self-assert their gender identity and is replacing the documentation requirements in Subpart D to support a retiree’s, dependent’s, or contractor’s request to update their gender marker in their DEERS record with a written statement signed by the individual indicating their preferred gender identity. Section 161.23(k) and Table 33 have been revised to reflect this change, eliminating the need to address the commenter’s specific recommendations concerning the health care provider letter. Executive Order 14004 concerns service in the Armed Forces of the United States and is not applicable to the gender marker change process in subpart D, which only applies to retirees, dependents, and contractor employees.

Comment: One civilian commenter wrote in to support the addition of a rule handling transgender service members’ and veterans’ ability to change their gender marker on military or veteran ID and other documents, as a means of accessing appropriate other IDs (State, local, and Federal in the case of passports and U.S. Citizenship and Immigration Services documents), being recognized as the appropriate gender in daily life and on record, and demonstrating that the military supports its transgender troops and veterans fully. The commenter said that surgery, hormones, or other medical interventions may not be available or applicable to every transgender person, and DoD should not require genital surgery for an ID change. The commenter also said that most transgender people, including those who do plan on genital or other surgery, need to change their ID documents much earlier than surgery can be accomplished (medical clearance, health insurance pre-approval, and money issues being what they are.) Allowing them to change their ID documents as soon as is practical is, again, an act of kindness, justice, and fundamental respect.

Response: DoD maintains an individual’s preferred gender identity (gender marker) in their DEERS record but does not print the preferred gender identity (gender marker) on any ID card it issues. Section 161.23(k) and Table 33 to Subpart D of Part 161 support the ability of retirees, dependents, and contractors to change their preferred gender identity. A separate DoD policy issuance, DoD Instruction 1300.28, In-Service Transition for Transgender Service Members (<https://www.esd.whs.mil/Portals/54/Documents/DD/issuances/dodi/130028p.pdf?ver=7d9-DSsprs-s7NwgJFSmDw%3d%3d>), supports the process by which Service members may change their gender marker (preferred gender identity) in their DEERS record. DoD Instruction 1336.01, Certificate of Uniformed Service (DD Form 214/5 Series) (<https://www.esd.whs.mil/Portals/54/Documents/DD/issuances/dodi/133601p.pdf?ver=5GyE0Rw0EgwwsXAPZe1tzA%3d%3d>), provides the process for an individual to correct information entered on their DD Form 214, Certificate of Release or Discharge From Active Duty. Section 161.23(k) and Table 33 to Subpart D of Part 161 have been revised to allow retiree, dependent, or contractor to submit a written statement identifying their preferred gender identity. All other

documentation requirements have been removed. DoD policy and processes are not applicable to ID credentials and documents issued by the Department of Veterans' Affairs.

Expected Impact of the Final Rule

DoD issues approximately four and one-half million ID cards each year to uniformed service members, civilian employees, contractors, foreign nationals, and, where applicable, family members. The Department estimates the ID cards issued to same-sex spouses represent less than one percent of the total ID cards issued in a year. The gender marker changes that have been made in DEERS due to changes in gender represent less than .002 percent of the total population.

This final rule benefits the Department and the public by strengthening the identity proofing requirements for ID card issuance. FIPS PUB 201–3 mandates changes to the acceptable forms of identification for the PIV identity proofing and registration requirements, providing lists of acceptable primary and secondary identity source documents. These revisions ensure DoD policy is compliant with the current Federal standard for identity proofing and registration requirements, the required identity source documents are provided by the ID card applicant during the actual ID card issuance process, and the individual receiving an ID card has verified his or her identity.

The rule also benefits members of the public by ensuring those eligible for DoD benefits will be issued an ID card in a timely manner. It also eliminates confusion for those seeking enrollment and benefit eligibility about the documentation requirements necessary to update a record to reflect an individual's personal information.

Finally, the incorporation of the revised Commissary, Exchange, and Morale, Welfare and Recreation policy issuances provide additional clarity concerning who is eligible to receive their respective benefits and the circumstances under which they are eligible for those benefits. The revisions to the benefits tables in Subpart C capture the changes to the updated benefits policy issuances and correct previously identified discrepancies, ensuring that those who are eligible for these benefits are provided timely access to those benefits.

Regulatory Procedures

Executive Order 12866, "Regulatory Planning and Review," and Executive Order 13563, "Improving Regulation and Regulatory Review"

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has been determined to be a "significant regulatory action" under section 3(f) of Executive Order 12866, as amended by Executive Order 14094, although not significant under section 3(f)(1) of Executive Order 12866.

Congressional Review Act (5 U.S.C. 801, et seq.)

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each house of the Congress and to the Comptroller General of the United States. DoD will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States. However, this rule is not a "major rule" as defined by 5 U.S.C. 804(2).

Title 2 U.S.C. Ch. 25, "Unfunded Mandates Reform Act"

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) (2 U.S.C. 1532) requires agencies to assess anticipated costs and benefits before issuing any rule whose mandates require spending in any 1 year of \$100 million in 1995 dollars, updated annually for inflation. This rule will not mandate any requirements for State, local, or tribal governments, nor will it affect private sector costs.

Public Law 96–354, "Regulatory Flexibility Act" (5 U.S.C. Ch. 6)

The Under Secretary of Defense for Personnel and Readiness certified that this final rule is not subject to the Regulatory Flexibility Act because it would not, if promulgated, have a significant economic impact on a

substantial number of small entities. Therefore, the Regulatory Flexibility Act, as amended, does not require us to prepare a regulatory flexibility analysis.

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

This rule imposes requirements under the Paperwork Reduction Act of 1995 which are approved by the Office of Management and Budget (OMB) and assigned OMB Control Number 0704–0415, "Application for Department of Defense Common Access Card—DEERS Enrollment." This information collection is used to validate eligibility for all individuals applying for DoD benefits and privileges which include but are not limited to, medical coverage, DoD identification cards, access to DoD installations, buildings or facilities, and access to DoD computer systems and networks. The Department did not receive any comments associated with this collection and does not believe the changes finalized in this rule will require any changes to the cost or burden currently associated with this information collection. Additional information regarding this collection of information—including all current background materials—can be found at <https://www.reginfo.gov/public/do/PRAMain> by using the search function to enter either the title of the collection or the OMB Control Number.

Executive Order 13132, "Federalism"

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a final rule that imposes substantial direct requirement costs on State and local governments, preempts State law, or otherwise has federalism implications. This final rule will not have a substantial effect on State and local governments.

Executive Order 13175, "Consultation and Coordination With Indian Tribal Governments"

Executive Order 13175 establishes certain requirements that an agency must meet when it promulgates a final rule that imposes substantial direct compliance costs on one or more Indian tribes, preempts tribal law, or effects the distribution of power and responsibilities between the Federal Government and Indian tribes. This rule will not have a substantial effect on Indian tribal governments.

List of Subjects in 32 CFR Part 161

Administrative practice and procedure, Armed forces, Military personnel, National defense, Privacy, Security measures.

Accordingly, the interim final rule that published at 79 FR 708–747 on January 6, 2014, and the interim final rule that published at 81 FR 74874–74916 on October 27, 2016, are adopted as a final rule with the following changes made in response to public comments received:

PART 161—IDENTIFICATION (ID) CARDS FOR MEMBERS OF THE UNIFORMED SERVICES, THEIR DEPENDENTS, AND OTHER ELIGIBLE INDIVIDUALS

■ 1. The authority citation for 32 CFR part 161 is revised to read as follows:

Authority: 5 U.S.C. 5703, 10 U.S.C. 1061–1064, 1072–1074, 1074a–1074c, 1076, 1076a, 1077, and 1095(k)(2), and 18 U.S.C. 499, 506, 509, 701, and 1001; 10 U.S.C. 1408(h), 10 U.S.C. 1044a, 10 U.S.C. chapter 1223.

§ 161.3 [Amended]

■ 2. Amend § 161.3 by:

- a. Deleting the duplicate definition of “Foreign affiliate.”
- b. Removing “official visit,” before the word “assignment” in the definition of “Foreign affiliate” and
- c. Deleting the definition of “Foreign national civilians and contractors.”

§ 161.4 [Amended]

■ 3. Amend § 161.4 by:

- a. In paragraph (e):
- i. Removing the words “FIPS Publication 201–2” and adding in its place the words “FIPS Publication 201–3” and
- ii. Removing the words “(available at <https://dx.doi.org/10.6028/NIST.FIPS.201-2>)” and adding in its place the words “(available at <https://dx.doi.org/10.6028/NIST.FIPS.201-3>)”.

§ 161.5 [Amended]

■ 4. Amend § 161.5 by:

- a. In paragraphs (a)(7) and (a)(8), removing the words “FIPS Publication 201–2” and adding in its place the words “FIPS Publication 201–3”.

§ 161.6 [Amended]

■ 5. Amend § 161.6 by removing the words “FIPS Publication 201–2” and adding in its place the words “FIPS Publication 201–3” everywhere they occur.

■ 6. Amend § 161.7 by:

- a. Removing the words “FIPS Publication 201–2” and adding in its place the words “FIPS Publication 201–3” everywhere they occur.
- b. In paragraph (d)(1)(ii):
- i. Removing the words “continental United States (CONUS)” and adding in its place the words “United States and U.S. territories and possessions” and by

removing the word “CONUS” and adding in its place the words “United States and U.S. territories and possessions” and

■ ii. Adding the sentence “A foreign government issued ID with photograph may be used as a secondary document for ID card issuance.”, following the sixth sentence.

■ c. In paragraph (e)(2)(ii)(B), removing the words “a dependent of retired Service members who are either 75 years of age” and adding in its place the words “the dependents of retired Service members who are either 65 years of age”.

■ d. Revising paragraph (e)(3) introductory text; and

■ e. Revising paragraph (g)(2).

The revisions read as follows:

§ 161.7 ID card life-cycle procedures.

* * * * *

(e) * * *

(3) *Renewal and reissuance.*

Consistent with applicable law, the applicant for ID renewal or reissuance shall be required to surrender the current DoD ID card that is up for renewal or reissuance except as indicated for lost and stolen ID cards in paragraph (e)(3)(iii) of this section. An expired DoD ID card is an acceptable secondary form of ID for non-CAC ID card renewal or reissuance if identity document verification is required. To authenticate renewal or reissuance applicants, the VO shall visually compare the applicant against the facial image stored in DEERS. For applicants who have fingerprint biometrics stored in DEERS, live fingerprint biometrics samples shall be checked against the applicant's DEERS record. If the biometric check confirms the identity of the renewal or reissuance applicant then no additional documentation is required to verify identity other than the ID card that is being renewed or reissued (documentation may still be required to verify or re-verify eligibility as described in paragraph (d)(2) of this section). As a general practice for renewal or re-issuance, two fresh fingerprint biometric captures may be stored for applicable personnel through the initial procedures in paragraph (d)(4)(ii) of this section to support DMDC's biometric update schedule. If biometric information cannot be verified, the requirements for initial issuance shall apply or a temporary card may be issued in accordance with paragraph (e)(4) of this subpart.

* * * * *

(g) * * *

(2) The DoD sponsor or sponsoring organization is ultimately responsible for retrieving CACs from their personnel

who are no longer supporting their organization or activity with the exception of transferring DoD civilian employees. Civilian employees transferring from one DoD Component to another as civilian employees (e.g., Army civilian to Air Force civilian) will be permitted to retain their CAC during their transition for up to 30 days in accordance with the DoD CIO and USD(P&R) joint memorandum, “Common Access Card Retention for Department of Defense Civilian Employees when Transferring Between Department of Defense Components.” CAC retrieval will be documented and treated as personally identifiable information, in accordance with DoD Regulation 5200.1–R, and 32 CFR part 310 and receipted to a RAPIDS site for disposition in a timely manner. * * *

■ 7. Amend Appendix 1 to § 161.7 by:

- a. Revising paragraph (c)(2)(ii)(A)(3),
- b. Revising paragraphs (d)(2)(i) through (d)(2)(vii),
- c. Removing paragraph (d)(2)(viii),
- d. Revising paragraphs (l)(2)(iii), (l)(2)(vi), and (l)(2)(vii)(B); and
- e. Revising paragraph (m)(1).

The revisions read as follows:

Appendix 1 to § 161.7—ID Card Descriptions and Population Eligibility Categories

* * * * *

(c) * * *

(ii) * * *

(2) * * *

(A) * * *

(3) Non-DoD Government Agency Civilian Personnel that are working in support of DoD but do not possess a Federal PIV card that is accepted by the sponsoring DoD Component. * * *

* * * * *

(d) * * *

(2) * * *

(i) DoD and uniformed services civilian employees when stationed or employed and residing in foreign countries for a period of at least 365 days.

(ii) DoD contractors when stationed or employed and residing in foreign countries for a period of at least 365 days.

(iii) DoD Presidential appointees who have been appointed with the advice and consent of the Senate.

(iv) Civilian employees of the Army and Air Force Exchange System, Navy Exchange System, and Marine Corps Exchange System and NAF activity employees of the Coast Guard Exchange Service.

(v) Uniformed and non-uniformed full-time paid personnel of the Red Cross assigned to duty with the uniformed services within the United States and U.S. territories and possessions, when required to reside in a household on a military installation.

(vi) Uniformed and non-uniformed, full-time, paid personnel of the Red Cross assigned to duty with the uniformed services in foreign countries.

(vii) Foreign military who meet the eligibility requirement of paragraph (a)(2) of § 161.7 and are in one of the categories in paragraphs (d)(2)(viii)(A) through (C) of this appendix. Those foreign military not meeting the eligibility requirements for CAC as described in paragraph (a)(2) of § 161.7 shall be issued a DD Form 2765 as described in paragraph (l) of this appendix.

* * * * *

(l) * * *

(2) * * *

(iii) Members eligible for transitional health care (THC). These individuals shall be eligible for DD Form 2765 showing expiration date for each benefit, as shown on the reverse of the card.

* * * * *

(vi) DoD beneficiaries (eligible former spouses, widows, widowers, and abused dependents)

(vii) * * *

(B) Full-time paid personnel of the United Service Organization, when serving in foreign countries.

* * * * *

(m) * * *

(1) *Description.* This ID shall only be used to establish DoD civilian retiree identity and previous affiliation with the DoD.

* * * * *

■ 8. Amend Appendix 2 to § 161.7 by:

■ a. Revising paragraph (b) introductory text and

■ b. In paragraph (c)(2), removing the word “CONUS” and adding the words “the United States and U.S. territories and possessions” in its place.

The revisions read as follows:

Appendix 2 to § 161.7—Topology Specifications

* * * * *

(b) *CAC stripe color coding.* The CAC shall be color-coded as indicated in the Table to reflect the status of the holder of the card. If a person meets more than one condition as shown in the Table, priority will be given to the blue stripe to denote a non-U.S. citizen unless the card serves as a Geneva Conventions card.

* * * * *

■ 9. Amend § 161.10 by revising Table 2 to Subpart C of Part 161 to read as follows:

§ 161.10 Benefits for active duty members of the uniformed services.

* * * * *

TABLE 2 TO SUBPART C OF PART 161—BENEFITS FOR DEPENDENTS OF ACTIVE DUTY MEMBERS

	CHC	DC	C	MWR	E
Spouse	Yes	Yes	Yes	Yes	Yes.
Children, Unmarried, Under 21 Years:					
Legitimate, adopted, stepchild, illegitimate child of record of female member, or illegitimate child of male member whose paternity has been judicially determined or voluntarily acknowledged.	Yes	Yes	1	1	1.
Ward	3	3	3	3	3.
Pre-adoptive Child	4	4	1, 4	1, 4	1, 4.
Foster Child	No	No	1	1	1.
Children, Unmarried, 21 Years and Over	5	5	6	6	6.
Parent, Parent-in-Law, Stepparent, or Parent by Adoption	No	2	2	2	2.

Notes:

1. Yes, if dependent on an authorized sponsor for over 50 percent of the child's support.
2. Yes, if dependent on an authorized sponsor for over 50 percent of the parent's support and residing in the sponsor's household.
3. Yes, if, for determination of dependency made on or after July 1, 1994, placed in the legal custody of the member as a result of a court of competent jurisdiction in the United States (or possession of the United States) for a period of at least 12 consecutive months; and:
 - a. Is dependent on the member for over 50 percent support.
 - b. Resides with the member unless separated by the necessity of uniformed service or to receive institutional care as a result of a disability or incapacitation or under such other circumstances as the administering Secretary or Director may, by regulation, prescribe.
4. Yes, if, for determinations of dependency made on or after October 5, 1994, placed in the home of the member by a placement agency (recognized by the Secretary of Defense) or by another organization authorized by State or local law to provide adoption placement, in anticipation of the legal adoption by the member.
5. Yes, if the child:
 - a. Has not attained the age of 23, is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary and is dependent on the member for over 50 percent of the child's support; or
 - b. Is incapable of self-support because of a mental or physical incapacity that existed before age 21, or occurred before the age of 23 while a full-time student while a dependent of a member and is dependent on the member for over 50 percent of the child's support.
6. Yes, if the child:
 - a. Has not attained the age of 23, is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary and is dependent on the member for over 50 percent of the child's support; or
 - b. Is incapable of self-support because of a mental or physical incapacity and is dependent on the member for over 50 percent of the child's support.

■ 10. Amend § 161.11 by revising Table 5 to Subpart C of Part 161 to read as follows:

§ 161.11 Benefits for National Guard and Reserve members of the uniformed services.

* * * * *

TABLE 5 TO SUBPART C OF PART 161—BENEFITS FOR DEPENDENTS OF NATIONAL GUARD OR RESERVE MEMBERS

	CHC	DC	C	MWR	E
Spouse	1	1	Yes	Yes	Yes.
Children, Unmarried, Under 21 Years:					
Legitimate, adopted, stepchild, illegitimate child of record of female member, or illegitimate child of male member whose paternity has been judicially determined or voluntarily acknowledged.	1	1	2	2	2.
Ward	1, 4	1, 4	4	4	4.

TABLE 5 TO SUBPART C OF PART 161—BENEFITS FOR DEPENDENTS OF NATIONAL GUARD OR RESERVE MEMBERS—
Continued

	CHC	DC	C	MWR	E
Pre-adoptive Child	1, 5	1, 5	2, 5	2, 5	2, 5.
Foster Child	No	No	2	2	2.
Children, Unmarried, 21 Years and Over	1, 6	1, 6	7	7	7.
Parent, Parent-in-Law, Stepparent, or Parent by Adoption	No	1, 3	3	3	3.

Notes:

1. Yes, if the sponsor is on active duty greater than 30 days. When the order to active duty period is greater than 30 days the eligibility for CHC and DC for eligible dependents begins on the same day the sponsor becomes eligible for active duty benefits.
2. Yes, if dependent on an authorized sponsor for over 50 percent of the child's support.
3. Yes, if dependent on an authorized sponsor for over 50 percent support of the parent's support and residing in the sponsor's household.
4. Yes, if, for determination of dependency made on or after July 1, 1994, placed in the legal custody of the member as a result of a court of competent jurisdiction in the United States (or possession of the United States) for a period of at least 12 consecutive months; and:
 - a. Is dependent on the member for over 50 percent support.
 - b. Resides with the member unless separated by the necessity of uniformed service or to receive institutional care as a result of a disability or incapacitation or under such other circumstances as the administering Secretary may, by regulation, prescribe.
5. Yes, if, for determinations of dependency made on or after October 5, 1994, placed in the home of the member by a placement agency (recognized by the Secretary of Defense) or by another source authorized by State or local law to provide adoption placement, in anticipation of the legal adoption by the member.
6. Yes, if the child:
 - a. Has not attained the age of 23, is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary, and is dependent on the member for over 50 percent of the child's support; or
 - b. Is incapable of self-support because of a mental or physical incapacity that existed before age 21, or occurred before the age of 23 while a full-time student while a dependent of a member and is dependent on the member for over 50 percent of the child's support.
7. Yes, if the child:
 - a. Has not attained the age of 23, is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary, and is dependent on the member for over 50 percent of the child's support; or
 - b. Is incapable of self-support because of a mental or physical incapacity and is dependent on the member for over 50 percent of the child's support.

* * * * *

■ 11. Amend § 161.12 by revising Table 6 to Subpart C of Part 161 to read as follows:

§ 161.12 Benefits for former uniformed services members.

* * * * *

TABLE 6 TO SUBPART C OF PART 161—BENEFITS FOR FORMER MEMBERS AND DEPENDENTS

	CHC	DC	C	MWR	E
Former Member (Self)	1	1	Yes	Yes	Yes.
Spouse	1	2	Yes	Yes	Yes.
Children, Unmarried, Under 21 Years:					
Legitimate, adopted, stepchild, illegitimate child of record of female member, or illegitimate child of male member whose paternity has been judicially determined or voluntarily acknowledged.	1	2	3	3	3.
Ward	1, 5	2, 5	5	5	5.
Pre-adoptive Child	1, 6	2, 6	3, 6	3, 6	3, 6.
Foster Child	No	No	3	3	3.
Children, Unmarried, 21 Years and Over	1, 7	2, 7	8	8	8.
Parent, Parent-in-Law, Stepparent, or Parent by Adoption	No	2, 4	4	4	4.

Notes:

1. Yes, if the former member is age 60 or over and in receipt of retired pay for non-regular service; and is:
 - a. Not entitled to Medicare Part A hospital insurance through the SSA, or
 - b. Entitled to Medicare Part A hospital insurance and enrolled in Medicare Part B medical insurance or qualified as an exception in accordance with section 706 of Public Law 111–84, “National Defense Authorization Act for Fiscal Year 2010.”
2. Yes, if former member is age 60 or over and in receipt of retired pay for non-regular service.
3. Yes, if dependent on an authorized sponsor for over 50 percent of the child's support.
4. Yes, if dependent on an authorized sponsor for over 50 percent of the parent's support and residing in the sponsor's household.
5. Yes, if, for determination of dependency made on or after July 1, 1994, placed in the legal custody of the member or former member as a result of a court of competent jurisdiction in the United States (or possession of the United States) for a period of at least 12 consecutive months; and:
 - a. Is dependent on the member for over 50 percent support.
 - b. Resides with the member or former member unless separated by the necessity of uniformed service or to receive institutional care as a result of a disability or incapacitation or under such other circumstances as the administering Secretary may, by regulation, prescribe.
6. Yes, if, for determinations of dependency made on or after October 5, 1994, placed in the home of the member or former member by a placement agency (recognized by the Secretary of Defense) or by another source authorized by State or local law to provide adoption placement, in anticipation of the legal adoption by the member or former member.
7. Yes, if the child:
 - a. Has not attained the age of 23, is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary, and is dependent on the former member for over 50 percent of the child's support; or
 - b. Is incapable of self-support because of a mental or physical incapacity that existed before age 21, or occurred before the age of 23 while a full-time student while a dependent of a member or former member, and is dependent on the member or former member for over 50 percent of the child's support.
8. Yes, if the child:

a. Has not attained the age of 23, is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary, and is dependent on the former member for over 50 percent of the child's support; or

b. Is incapable of self-support because of a mental or physical incapacity and is dependent on the former member for over 50 percent of the child's support.

* * * * *

■ 12. Amend § 161.13 by revising Table 12 to Subpart C of Part 161 to read as follows:

§ 161.13 Benefits for retired members of the uniformed services.

* * * * *

TABLE 12 TO SUBPART C OF PART 161—BENEFITS FOR DEPENDENTS OF RETIRED UNIFORMED SERVICES MEMBERS

	CHC	DC	C	MWR	E
Spouse	1	2	Yes	Yes	Yes.
Children, Unmarried, Under 21 Years:					
Legitimate, adopted, stepchild, illegitimate child of record of female member, or illegitimate child of male member whose paternity has been judicially determined or voluntarily acknowledged.	1	2	3	3	3.
Ward	1, 5	2, 5	5	5	5.
Pre-adoptive Child	1, 6	2, 6	3, 6	3, 6	3, 6.
Foster Child	No	No	3	3	3.
Children, Unmarried, 21 Years and Over	1, 7	2, 7	8	8	8.
Parent, Parent-in-Law, Stepparent, or Parent by Adoption	No	2, 4	4	4	4.

Notes:

1. Yes, if the sponsor is:

a. Retired (as shown in Tables 7 and 8 to this subpart) and the dependent is not entitled to Medicare Part A hospital insurance through the SSA; or if entitled to Medicare Part A hospital insurance and enrolled in Medicare Part B medical insurance or qualified as an exception in accordance with section 706 of Public Law 111–84;

b. A National Guard or Reserve member on a period of active duty in excess of 30 days (as shown in Table 10 to this subpart). When the ordered to active duty period is greater than 30 days the eligibility for CHC and DC for the eligible dependents begins on the first day of the active duty period; or

c. A medically eligible non-regular Service Reserve Retiree, age 60 or over, as shown in Table 11 of this subpart.

2. Yes, if the sponsor is:

a. Retired (as shown in Tables 7 and 8 to this subpart);

b. A National Guard or Reserve member on a period of active duty in excess of 30 days (as shown in Table 10 to this subpart). When the ordered to active duty period is greater than 30 days the eligibility for CHC and DC for the eligible dependents begins on the first day of the active duty period; or

c. A medically eligible non-regular Service Reserve Retiree, age 60 or over, as seen in Table 11 to this subpart.

3. Yes, if dependent on an authorized sponsor for over 50 percent of the child's support.

4. Yes, if dependent on an authorized sponsor for over 50 percent of the parent's support and residing in the sponsor's household.

5. Yes, if, for determination of dependency made on or after July 1, 1994, placed in the legal custody of the member or former member as a result of a court of competent jurisdiction in the United States (or possession of the United States) for a period of at least 12 consecutive months; and:

a. Is dependent on the member for over 50 percent support.

b. Resides with the member or former member unless separated by the necessity of uniformed service or to receive institutional care as a result of a disability or incapacitation or under such other circumstances as the administering Secretary may, by regulation, prescribe.

6. Yes, if, for determinations of dependency made on or after October 5, 1994, placed in the home of the member or former member by a placement agency (recognized by the Secretary of Defense) or by another source authorized by State or local law to provide adoption placement, in anticipation of the legal adoption by the member or former member.

7. Yes, if the child:

a. Has not attained the age of 23, is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary, and is dependent on the former member for over 50 percent of the child's support; or

b. Is incapable of self-support because of a mental or physical incapacity that existed before age 21, or occurred before the age of 23 while a full-time student while a dependent of a member or former member, and is dependent on the member or former member for over 50 percent of the child's support.

8. Yes, if the child:

a. Has not attained the age of 23, is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary, and is dependent on the retired member for over 50 percent of the child's support; or

b. Is incapable of self-support because of a mental or physical incapacity and is dependent on the retired member for over 50 percent of child's support.

■ 13. Amend § 161.14 by revising Table 13 to Subpart C of Part 161 to read as follows:

§ 161.14 Benefits for MOH recipients.

* * * * *

TABLE 13 TO SUBPART C OF PART 161—BENEFITS FOR MOH RECIPIENTS AND DEPENDENTS

	CHC	DC	C	MWR	E
Self	1	2	Yes	Yes	Yes.
Spouse	1	2	Yes	Yes	Yes.
Children, Unmarried, Under 21 Years:					
Legitimate, adopted, stepchild, illegitimate child of record of female member, or illegitimate child of male member whose paternity has been judicially determined or voluntarily acknowledged.	1	2	3	3	3.

TABLE 13 TO SUBPART C OF PART 161—BENEFITS FOR MOH RECIPIENTS AND DEPENDENTS—Continued

	CHC	DC	C	MWR	E
Ward	1, 5	2, 5	5	5	5.
Pre-adoptive Child	1, 6	2, 6	3, 6	3, 6	3, 6.
Foster Child	No	No	3	3	3.
Children, Unmarried, 21 Years and Over	1, 7	2, 7	8	8	8.
Parent, Parent-in-Law, Stepparent, or Parent by Adoption	No	2, 4	4	4	4.

Notes:

1. Yes, if the sponsor is a MOH recipient and is not otherwise entitled to medical care as of or after October 30, 2000 pursuant to section 706 of Public Law 106–398 and:
 - a. Is not entitled to Medicare Part A hospital insurance through the SSA or
 - b. Is entitled to Medicare Part A hospital insurance and enrolled in Medicare Part B medical insurance or qualified as an exception in accordance with section 706 of Public Law 111–84.
2. Yes, if the sponsor is a MOH recipient and is not otherwise entitled to medical care as of or after October 30, 2000 pursuant to section 706 of Public Law 106–398.
3. Yes, if dependent on an authorized sponsor for over 50 percent of the child's support.
4. Yes, if dependent on an authorized sponsor for over 50 percent of the parent's support and residing in the sponsor's household.
5. Yes, if, for determination of dependency made on or after July 1, 1994, placed in the legal custody of the member or former member as a result of a court of competent jurisdiction in the United States (or possession of the United States) for a period of at least 12 consecutive months; and:
 - a. Is dependent on the member for over 50 percent support.
 - b. Resides with the member or former member unless separated by the necessity of uniformed service or to receive institutional care as a result of a disability or incapacitation or under such other circumstances as the administering Secretary may, by regulation, prescribe.
6. Yes, if, for determinations of dependency made on or after October 5, 1994, placed in the home of the member or former member by a placement agency (recognized by the Secretary of Defense) or by another source authorized by State or local law to provide adoption placement, in anticipation of the legal adoption by the member or former member.
7. Yes, if the child:
 - a. Has not attained the age of 23, is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary, and is dependent on the former member for over 50 percent of the child's support or
 - b. Is incapable of self-support because of a mental or physical incapacity that existed before age 21, or occurred before the age of 23 while a full-time student while a dependent of a member or former member, and is dependent on the member or former member for over 50 percent of the child's support.
8. Yes, if the child:
 - a. Has not attained the age of 23, is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary, and is dependent on the MOH recipient for over 50 percent of the child's support; or
 - b. Is incapable of self-support because of a mental or physical incapacity and is dependent on the MOH recipient for over 50 percent of the child's support.

■ 14. Amend § 161.15 by revising Table 14 to Subpart C of Part 161 to read as follows:

§ 161.15 Benefits for Disabled American Veterans (DAV).

* * * * *

TABLE 14 TO SUBPART C OF PART 161—BENEFITS FOR 100 PERCENT DAVS AND DEPENDENTS

	CHC	DC	C	MWR	E
Self	No	No	Yes	Yes	Yes.
Spouse	No	No	Yes	Yes	Yes.
Children, Unmarried, Under 21 Years:					
Legitimate, adopted, stepchild, illegitimate child of record of female member, or illegitimate child of male member whose paternity has been judicially determined or voluntarily acknowledged.	No	No	1	1	1.
Ward	No	No	3	3	3.
Pre-adoptive Child	No	No	1, 4	1, 4	1, 4.
Foster Child	No	No	1	1	1.
Children, Unmarried, 21 Years and Over	No	No	5	5	5.
Parent, Parent-in-Law, Stepparent, or Parent-by-Adoption	No	No	2	2	2.

Notes:

1. Yes, if dependent on an authorized sponsor for over 50 percent of the child's support.
2. Yes, if dependent on an authorized sponsor for over 50 percent of the parent's support and residing in the sponsor's household.
3. Yes, if, for determination of dependency made on or after July 1, 1994, placed in the legal custody of the member or former member as a result of a court of competent jurisdiction in the United States (or possession of the United States) for a period of at least 12 consecutive months; and:
 - a. Is dependent on the member for over 50 percent support.
 - b. Resides with the member or former member unless separated by the necessity of uniformed service or to receive institutional care as a result of a disability or incapacitation or under such other circumstances as the administering Secretary may, by regulation, prescribe.
4. Yes, if, for determinations of dependency made on or after October 5, 1994, placed in the home of the member or former member by a placement agency (recognized by the Secretary of Defense) or by another source authorized by State or local law to provide adoption placement, in anticipation of the legal adoption by the member or former member.
5. Yes, if the child:
 - a. Has not attained the age of 23, is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary, and is dependent on the authorized sponsor for over 50 percent of the child's support or
 - b. Is incapable of self-support because of a mental or physical incapacity, and is dependent on the authorized sponsor for over 50 percent of the child's support.

■ 15. Amend § 161.16 by revising Table 15 to Subpart C of Part 161 to read as follows:

§ 161.16 Benefits for transitional health care members and dependents.

* * * * *

TABLE 15 TO SUBPART C OF PART 161—BENEFITS FOR THC MEMBERS AND DEPENDENTS

	CHC	DC	C	MWR	E
THC Member (Self)	1	1	2, 3	2, 3	2, 3.
Spouse	1	1	2, 3	2, 3	2, 3.
Children, Unmarried, Under 21 Years:					
Legitimate, adopted, stepchild, illegitimate child of record of female member, or illegitimate child of male member whose paternity has been judicially determined or voluntarily acknowledged.	1	1	2, 3, 4	2, 3, 4	2, 3, 4.
Ward	1, 6	1, 6	2, 3, 6	2, 3, 6	2, 3, 6.
Pre-adoptive Child	1, 7	1, 7	2, 3, 4, 7	2, 3, 4, 7	2, 3, 4, 7.
Foster Child	No	No	2, 3, 4	2, 3, 4	2, 3, 4.
Children, Unmarried, 21 Years and Over	1, 8	1, 8	2, 3, 9	2, 3, 9	2, 3, 9.
Parent-in-Law, Stepparent, or Parent-by-Adoption	No	1, 5	2, 3, 5	2, 3, 5	2, 3, 5.

Notes:

1. Yes, medical entitlement for 180 days beginning on the date after the member separated from the qualifying active duty period. There is no exception based on entitlement to Medicare Part A. The THC eligible sponsor and eligible dependents receive the medical benefits as if they were active duty eligible dependents.

2. No, if the member:

- a. Separated on or after January 1, 2001, but before October 1, 2007.
- b. Separated in accordance with 10 U.S.C. 1145(a)(2)(F).
- c. Separated from active duty to join the SelRes or the Ready Reserve of a Reserve Component.

3. Yes, if the member was separated during the period beginning on October 1, 1990, through December 31, 2001, or after October 1, 2007. Entitlement shall be for 2 years, beginning on the date the member separated.

4. Yes, if dependent on an authorized sponsor for over 50 percent of the child's support.

5. Yes, if dependent on an authorized sponsor for over 50 percent of the parent's support and residing in the sponsor's household.

6. Yes, if, for determination of dependency made on or after July 1, 1994, placed in the legal custody of the member or former member as a result of a court of competent jurisdiction in the United States (or possession of the United States) for a period of at least 12 consecutive months; and:

a. Is dependent on the member for over 50 percent support.

b. Resides with the member or former member unless separated by the necessity of uniformed service or to receive institutional care as a result of a disability or incapacitation or under such other circumstances as the administering Secretary may, by regulation, prescribe.

7. Yes, if, for determinations of dependency made on or after October 5, 1994, placed in the home of the member or former member by a placement agency (recognized by the Secretary of Defense) or by another source authorized by State or local law to provide adoption placement, in anticipation of the legal adoption by the member or former member.

8. Yes, if the child:

a. Has not attained the age of 23, is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary, and is dependent on the authorized sponsor for over 50 percent of the child's support; or

b. Is incapable of self-support because of a mental or physical incapacity that existed before age 21, or occurred before the age of 23 while a full-time student while a dependent of a member or former member, and is dependent on the authorized sponsor for over 50 percent of the child's support.

9. Yes, if the child:

a. Has not attained the age of 23, is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary, and is dependent on the authorized sponsor for over 50 percent of the child's support; or

b. Is incapable of self-support because of a mental or physical incapacity and is dependent on the authorized sponsor for over 50 percent of the child's support.

■ 16. Amend § 161.17 by:

■ a. Revising Tables 16, 17, 18, 19, and 20 to Subpart C of Part 161 and

■ b. In the heading of paragraph (d), removing “whose death is unrelated to

the member's service” and adding in its place “who died in a non-reportable status”.

The revisions read as follows:

§ 161.17 Benefits for surviving dependents.

* * * * *

TABLE 16 TO SUBPART C OF PART 161—BENEFITS FOR SURVIVING DEPENDENTS OF ACTIVE DUTY DECEASED MEMBERS

	CHC	DC	C	MWR	E
Widow or widower:					
Unremarried	1	Yes	Yes	Yes	Yes.
Remarried	No	No	No	No	No.
Unmarried	No	No	Yes	Yes	Yes.
Children, Unmarried, or Under 21 Years:					
Legitimate, adopted, stepchild, illegitimate child of record of female member, or illegitimate child of male member whose paternity has been judicially determined or voluntarily acknowledged.	1	Yes	2	2	2.
Ward	1, 4	1, 4	4	4	4.
Pre-adoptive Child	1, 5	1, 5	2, 5	2, 5	2, 5.
Foster Child	No	No	2	2	2.
Children, Unmarried, 21 Years and Over	1, 6	6	7	7	7.

TABLE 16 TO SUBPART C OF PART 161—BENEFITS FOR SURVIVING DEPENDENTS OF ACTIVE DUTY DECEASED MEMBERS—Continued

	CHC	DC	C	MWR	E
Parent, Parent-in-Law, Stepparent, or Parent by Adoption	No	3	3	3	3.

Notes:

1. Yes, if the sponsor died on active duty (for dependents of National Guard or Reserve members or Retired Reserve members the period of active duty must be in excess of 30 days in order to qualify for the benefits in this table) and:

a. If claims are filed less than 3 years from the date of death, there is no Medicare exception for the widow. After 3 years from the date of death, the widow is eligible if,

(1) Not entitled to Medicare Part A hospital insurance through the SSA.

(2) Entitled to Medicare Part A hospital insurance and enrolled in Medicare Part B medical insurance or qualified as an exception in accordance with section 706 of Public Law 111–84.

b. Yes, for children regardless of the number of years from the date of death or entitlement to Medicare they are entitled.

2. Yes, if dependent on an authorized sponsor for over 50 percent of the child's support at the time of the sponsor's death.

3. Yes, if dependent on an authorized sponsor for over 50 percent of the parent's support and residing in the sponsor's household at the time of the sponsor's death.

4. Yes, if, for determinations of dependency made on or after July 1, 1994, and prior to the death of the member, the child had been placed in the legal custody of the member as a result of a court of competent jurisdiction in the United States (or possession of the United States) for a period of at least 12 consecutive months; and was at the time of the sponsor's death:

a. Dependent on the member for over 50 percent support.

b. Residing with the member unless separated by the necessity of uniformed service or to receive institutional care as a result of a disability or incapacitation or under such other circumstances as the administering Secretary may, by regulation, prescribe.

5. Yes, if, for determinations of dependency made on or after October 5, 1994, and prior to the death of the member, the child had been placed in the home of the member by a placement agency (recognized by the Secretary of Defense) or by another source authorized by State or local law to provide adoption placement, in anticipation of the legal adoption by the member.

6. Yes, if the child:

a. Has not attained the age of 23, is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary, and is or was at the time of the member's death dependent on the member for over 50 percent of the child's support; or

b. Is incapable of self-support because of a mental or physical incapacity that existed before age 21, or occurred before the age of 23 while a full-time student while a dependent of a member or former member and is or was at the time of the member's death dependent on the member for over 50 percent of the child's support.

7. Yes, if the child:

a. Has not attained the age of 23, is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary, and is, or was at the time of the member's death, dependent on the member for over 50 percent of the child's support.

b. Is incapable of self-support because of a mental or physical incapacity and is, or was at the time of the member's death, dependent on the member for over 50 percent of the child's support.

* * *

TABLE 17 TO SUBPART C OF PART 161—BENEFITS FOR SURVIVING DEPENDENTS OF DECEASED NATIONAL GUARD AND RESERVE MEMBERS NOT ON ACTIVE DUTY FOR A PERIOD GREATER THAN 30 DAYS

	CHC	DC	C	MWR	E
Widow or Widower:					
Unremarried	1, 2	2	Yes	Yes	Yes.
Remarried	No	No	No	No	No.
Unmarried	No	No	Yes	Yes	Yes.
Children, Unmarried, Under 21 Years:					
Legitimate, adopted, stepchild, illegitimate child of record of female member, or illegitimate child of male member whose paternity has been judicially determined or voluntarily acknowledged.	1, 2	2	3	3	3.
Ward	1, 2, 5	2, 5	5	5	5.
Pre-adoptive Child	1, 2, 6	2, 6	3, 6	3, 6	3, 6.
Foster Child	No	No	3	3	3.
Children, Unmarried, 21 Years and Over	1, 2, 7	2, 7	8	8	8.
Parent, Parent-in-Law, Stepparent, or Parent by Adoption	No	2, 4	4	4	4.

Notes:

1. Yes, if:

a. Not entitled to Medicare Part A hospital insurance through the SSA.

b. Entitled to Medicare Part A hospital insurance and enrolled in Medicare Part B medical insurance or qualified as an exception in accordance with section 706 of Public Law 111–84.

2. Yes, only if death occurred on or after 1 October 1985 in accordance with the provisions of 10 U.S.C. 1076, or on or after November 15, 1986, in accordance with the provisions of 10 U.S.C. 1074a.

3. Yes, if dependent on an authorized sponsor for over 50 percent of the child's support at the time of the sponsor's death.

4. Yes, if dependent on an authorized sponsor for over 50 percent of the parent's support and residing in the sponsor's household at the time of the sponsor's death.

5. Yes, if, for determinations of dependency made on or after July 1, 1994, and prior to the death of the member, the child had been placed in the legal custody of the member as a result of a court of competent jurisdiction in the United States (or possession of the United States) for a period of at least 12 consecutive months and was at the time of the sponsor's death:

a. Dependent on the member for over 50 percent support.

b. Residing with the member unless separated by the necessity of uniformed service or to receive institutional care as a result of a disability or incapacitation or under such other circumstances as the administering Secretary may, by regulation, prescribe.

6. Yes, if, for determinations of dependency made on or after October 5, 1994, and prior to the death of the member, the child had been placed in the home of the member by a placement agency (recognized by the Secretary of Defense) or by another source authorized by State or local law to provide adoption placement, in anticipation of the legal adoption.

7. Yes, if the child:

a. Has not attained the age of 23, is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary, and is or was at the time of the member's death dependent on the member for over 50 percent of the child's support; or

b. Is incapable of self-support because of a mental or physical incapacity that existed before age 21, or occurred before the age of 23 while a full-time student while a dependent of a member and is or was at the time of the member's or former member's death dependent on the member for over 50 percent of the child's support.

8. Yes, if the child:

a. Has not attained the age of 23, is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary, and is, or was at the time of the member's death, dependent on the member for over 50 percent of the child's support.

b. Is incapable of self-support because of a mental or physical incapacity and is, or was at the time of the member's death, dependent on the member for over 50 percent of the child's support.

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TABLE 18 TO SUBPART C OF PART 161—BENEFITS FOR SURVIVING DEPENDENTS OF NATIONAL GUARD AND RESERVE MEMBERS WHO HAVE DIED BEFORE AGE 60

	CHC	DC	C	MWR	E
Widow or Widower:					
Unmarried	1, 2	1	Yes	Yes	Yes.
Remarried	No	No	No	No	No.
Unmarried	No	No	Yes	Yes	Yes.
Children, Unmarried, Under 21 Years:					
Legitimate, adopted, stepchild, illegitimate child of record of female member, or illegitimate child of male member whose paternity has been judicially determined or voluntarily acknowledged.	1, 2	1	3	3	3.
Ward	1, 2, 5	1, 5	5	5	5.
Pre-adoptive Child	1, 2, 6	1, 6	3, 6	3, 6	3, 6.
Foster Child	No	No	3	3	3.
Children, Unmarried, 21 Years and Over	1, 2, 7	1, 7	8	8	8.
Parent, Parent-in-Law, Stepparent, or Parent by Adoption	No	1, 4	4	4	4.

Notes:

1. Yes, on or after the date the member would have become age 60.

2. Yes, if:

a. Not entitled to Medicare Part A hospital insurance through the SSA or

b. Entitled to Medicare Part A hospital insurance and enrolled in Medicare Part B medical insurance or qualified as an exception in accordance with section 706 of Public Law 111–84.

3. Yes, if dependent on an authorized sponsor for over 50 percent of the child's support at the time of the sponsor's death.

4. Yes, if dependent on an authorized sponsor for over 50 percent of the parent's support and residing in the sponsor's household at the time of the sponsor's death.

5. Yes, if, for determinations of dependency made on or after July 1, 1994, and prior to the death of the member, the child had been placed in the legal custody of the member or former member as a result of a court of competent jurisdiction in the United States (or possession of the United States) for a period of at least 12 consecutive months; and was at the time of the sponsor's death:

a. Dependent on the member for over 50 percent support.

b. Residing with the member or former member unless separated by the necessity of uniformed service or to receive institutional care as a result of a disability or incapacitation or under such other circumstances as the administering Secretary may, by regulation, prescribe.

6. Yes, if, for determinations of dependency made on or after October 5, 1994, and prior to the death of the member, the child had been placed in the home of the member or former member by a placement agency (recognized by the Secretary of Defense) or by another source authorized by State or local law to provide adoption placement, in anticipation of the legal adoption.

7. Yes, if the child:

a. Has not attained the age of 23, is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary, and is or was at the time of the member's or former member's death dependent on the former member for over 50 percent of the child's support; or

b. Is incapable of self-support because of a mental or physical incapacity that existed before age 21, or occurred before the age of 23 while a full-time student while a dependent of a member or former member and is, or was at the time of the member's or former member's death, dependent on the member or former member for over 50 percent of the child's support.

8. Yes, if the child:

a. Has not attained the age of 23, is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary, and is, or was at the time of the member's death, dependent on the member for over 50 percent of the child's support.

b. Is incapable of self-support because of a mental or physical incapacity and is, or was at the time of the member's death, dependent on the member for over 50 percent of the child's support.

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who died in a non-reportable status. **

(d) *Surviving dependents of deceased*

**:*

National Guard and Reserve members

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TABLE 19 TO SUBPART C OF PART 161—BENEFITS FOR SURVIVING DEPENDENTS OF NATIONAL GUARD AND RESERVE MEMBERS WHO DIED IN A NON-REPORTABLE STATUS

Widow or Widower:					
Unmarried	No	No	Yes	Yes	Yes.

TABLE 19 TO SUBPART C OF PART 161—BENEFITS FOR SURVIVING DEPENDENTS OF NATIONAL GUARD AND RESERVE MEMBERS WHO DIED IN A NON-REPORTABLE STATUS—Continued

Remarried	No	No	No	No	No.
Unmarried	No	No	Yes	Yes	Yes.
Children, Unmarried, Under 21 Years:					
Legitimate, adopted, stepchild, illegitimate child of record of female member, or illegitimate child of male member whose paternity has been judicially determined or voluntarily acknowledged, foster child.	No	No	1	1	1.
Ward	No	No	2	2	2.
Pre-adoptive Child	No	No	1, 3	1, 3	1, 3.
Children, Unmarried, 21 Years and Over	No	No	4	4	4.
Parent, Parent-in-Law, Stepparent, or Parent by Adoption	No	No	5	5	5.

Notes:

1. Yes, if dependent on an authorized sponsor for over 50 percent of the child's support at the time of the sponsor's death.
2. Yes, if, for determinations of dependency made on or after July 1, 1994, and prior to the death of the member, the child had been placed in the legal custody of the member as a result of a court of competent jurisdiction in the United States (or possession of the United States) for a period of at least 12 consecutive months and was at the time of the sponsor's death:
 - a. Dependent on the member for over 50 percent support.
 - b. Residing with the member unless separated by the necessity of uniformed service or to receive institutional care as a result of a disability or incapacitation or under such other circumstances as the administering Secretary may, by regulation, prescribe.
3. Yes, if, for determinations of dependency made on or after October 5, 1994, and prior to the death of the member, the child had been placed in the home of the member by a placement agency (recognized by the Secretary of Defense) or by another source authorized by State or local law to provide adoption placement, in anticipation of the legal adoption.
4. Yes, if the child:
 - a. Has not attained the age of 23, is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary, and is, or was at the time of the member's death, dependent on the member for over 50 percent of the child's support.
 - b. Is incapable of self-support because of a mental or physical incapacity and is, or was at the time of the member's death, dependent on the member for over 50 percent of the child's support.
5. Yes, if dependent on that sponsor for over 50 percent of the child's support and residing in the sponsor's household at the time of the sponsor's death.

* * * * *

TABLE 20 TO SUBPART C OF PART 161—BENEFITS FOR SURVIVING DEPENDENTS OF DECEASED UNIFORMED SERVICES RETIREES AND DECEASED MOH RECIPIENTS

	CHC	DC	C	MWR	E
Widow or Widower:					
Unremarried	1, 2	2, 4	Yes	Yes	Yes.
Remarried	No	No	No	No	No.
Unmarried	No	No	Yes	Yes	Yes.
Children, Unmarried, Under 21 Years:					
Legitimate, adopted, stepchild, illegitimate child of member, illegitimate child of spouse.	1, 2	2, 4	3	3	3.
Ward	1, 2, 6	2, 3, 6	6	6	6.
Pre-adoptive Child	1, 2, 7	2, 3, 7	3, 7	3, 7	3, 7.
Foster Child	No	No	3	3	3.
Children, Unmarried, 21 Years and Over	1, 2, 8	2, 8	9	9	9.
Parent, Parent-in-Law, Stepparent, or Parent-by-Adoption	No	5	5	5	5.

Notes:

1. Yes, if the:
 - a. Deceased uniformed service member was a retired uniformed service member entitled to retired pay, including TDRL or PDRL, or a non-regular Service retiree, age 60 or over, in receipt of retired pay, and if the person is:
 - (1) Not entitled to Medicare Part A hospital insurance through the SSA; or,
 - (2) Entitled to Medicare Part A hospital insurance and enrolled in Medicare Part B medical insurance or qualified as an exception in accordance with section 706 of Public Law 111–84.
 - b. Deceased MOH recipient was not otherwise entitled to medical care as of, or after October 30, 2000 in accordance with section 706 of Public Law 106–398 and if the person is:
 - (1) Not entitled to Medicare Part A hospital insurance through the SSA; or,
 - (2) Entitled to Medicare Part A, hospital insurance and enrolled in Medicare Part B medical insurance or qualified as an exception in accordance with section 706 of Public Law 111–84.
2. No, if the deceased uniformed service member was a non-regular Service Retiree in accordance with the provision of 10 U.S.C. 12731 after the enactment of Public Law 110–181, sections 647 and 1106. The eligible surviving dependents will become eligible for CHC and DC on the anniversary of the 60th birthday of the deceased uniformed service member. Eligibility for CHC also requires that the person is:
 - a. Not entitled to Medicare Part A hospital insurance through the SSA; or,
 - b. Entitled to Medicare Part A hospital insurance and enrolled in Medicare Part B medical insurance or qualified as an exception in accordance with section 706 of Public Law 111–84.
3. Yes, if dependent on an authorized sponsor for over 50 percent of the individual's support at the time of the sponsor's death.
4. Yes, if the deceased was a retired uniformed services member entitled to retired pay, including TDRL or PDRL, or a non-regular Service retiree, age 60 or over, in receipt of retired pay, or a deceased MOH recipient not otherwise entitled to medical care as of or after, October 30, 2000, or a deceased non-regular Service retiree entitled in accordance with the provisions of 10 U.S.C. 12731 after the enactment of Public Law 110–181, sections 647 and 1106 on the anniversary of the 60th birthday of the deceased uniformed Service member.
5. Yes, if dependent on an authorized sponsor for over 50 percent of the individual's support and residing in the sponsor's household at the time of the sponsor's death.

6. Yes, if, for determinations of dependency made on or after July 1, 1994, and prior to the death of the member, the child had been placed in the legal custody of the member or former member as a result of a court of competent jurisdiction in the United States (or possession of the United States) for a period of at least 12 consecutive months; and was at the time of the sponsor's death:

a. Dependent on the member for over 50 percent support.

b. Residing with the member or former member unless separated by the necessity of uniformed service or to receive institutional care as a result of a disability or incapacitation or under such other circumstances as the administering Secretary may, by regulation, prescribe.

7. Yes, if, for determinations of dependency made on or after October 5, 1994, and prior to the death of the member, the child had been placed in the home of the member or former member by a placement agency (recognized by the Secretary of Defense) or by another source authorized by State or local law to provide adoption placement, in anticipation of the legal adoption.

8. Yes, if the child:

a. Has not attained the age of 23, is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary, and is or was at the time of the member's or former member's death dependent on the former member for over 50 percent of the child's support; or

b. Is incapable of self-support because of a mental or physical incapacity that existed before age 21, or occurred before the age of 23 while a full-time student while a dependent of a member or former member and is or was at the time of the member's or former member's death dependent on the member or former member for over 50 percent of the child's support.

9. Yes, if the child:

a. Has not attained the age of 23, is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary, and is, or was at the time of the member's death, dependent on the member for over 50 percent of the child's support.

b. Is incapable of self-support because of a mental or physical incapacity and is, or was at the time of the member's death, dependent on the member for over 50 percent of the child's support.

* * * *

■ 17. Amend § 161.18 by revising Tables 22 and 23 to Subpart C of Part 161 to read as follows:

§ 161.18 Benefits for abused dependents.

* * * *

TABLE 22 TO SUBPART C OF PART 161—BENEFITS FOR ABUSED DEPENDENTS OF RETIREMENT ELIGIBLE UNIFORMED SERVICES MEMBERS

	CHC	DC	C	MWR	E
Spouse	1, 2, 6	2, 6	Yes	Yes	Yes.
Children, Unmarried, Under 18 Years:					
Legitimate, adopted, stepchild, pre-adoptive	1, 3	3	4	4	4.
Children, Unmarried, 18 Years and Over (If entitled above)	1, 4, 5	4, 5	7	7	7.

Notes:

1. Yes, if:

a. Not entitled to Medicare Part A hospital insurance through the SSA.

b. Entitled to Medicare Part A hospital insurance and enrolled in Medicare Part B medical insurance or qualified as an exception in accordance with section 706 of Public Law 111–84.

2. Yes, if a court order provides for an annuity for the spouse.

3. Yes, if a member of the household where the abuse occurred.

4. Yes, if dependent on an authorized sponsor for over 50 percent of child's support at the time the abuse occurred.

5. Yes, if the child:

a. Is older than 18 years old and is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary; or

b. Is incapable of self-support because of a mental or physical incapacity that existed before age 18, or occurred before the age of 23 while a full-time student.

6. The spouse must have been married to the uniformed service member for at least 10 years, the uniformed service member must have completed 20 creditable years for retired pay, and they must have been married at least 10 years during the 20 years of creditable service (see § 161.19). The uniformed services shall prescribe specific procedures to verify the eligibility of an applicant.

7. Yes, if the child:

a. Is older than 18 years old but has not attained the age of 23, is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary, and was dependent on the sponsor for over 50 percent the child's support at the time the abuse occurred; or

b. Is incapable of self-support because of a mental or physical incapacity and was dependent on the sponsor for over 50 percent of the child's support at the time the abuse occurred.

* * * *

TABLE 23 TO SUBPART C OF PART 161—BENEFITS FOR ABUSED DEPENDENTS OF NON-RETIREMENT ELIGIBLE UNIFORMED SERVICES MEMBERS

	CHC	DC	C	MWR	E
Spouse	1, 2	2	4	4	4.
Children, Unmarried, Under 18 Years					
Legitimate, adopted, stepchild, pre-adoptive	1, 2	2	4	4	4.
Children, Unmarried, 18 Years and Over (If entitled above)	1, 2, 3	2, 3	4	4	4.

Notes:

1. Yes, if:

a. Not entitled to Medicare Part A hospital insurance through the SSA.

b. Entitled to Medicare Part A hospital insurance and enrolled in Medicare Part B medical insurance or qualified as an exception in accordance with section 706 of Public Law 111–84.

2. Yes, if

a. Residing with the member at the time of the dependent-abuse offense and not residing with the member while receiving transitional compensation for abused dependents.

b. Married to and residing with the member at the time of the dependent-abuse offense and while receiving transitional compensation for abused dependents.

3. Yes, if:

a. 18 years of age or older and incapable of self-support because of a mental or physical incapacity that existed before the age of 18 and who is (or was when a punitive or other adverse action was carried out on the member) dependent on the member for over one-half of the child's support; or

b. 18 years of age or older, but less than 23 years of age, is enrolled in a full-time course of study in an institution of higher learning approved by the Secretary of Defense and who is (or was when a punitive or other adverse action was carried out on the member) dependent on the member for over one-half of the child's support.

4. Yes, if receiving transitional compensation.

■ 18. Amend § 161.20 by revising Tables § 161.20 Benefits for civilian personnel.

29, 31, 32, 33, 35, 36, 37, 38, and 40 to * * * *

Subpart C of Part 161 to read as follows:

TABLE 29 TO SUBPART C OF PART 161—BENEFITS FOR CIVILIAN PERSONNEL IN THE UNITED STATES

	CHC	DC	C	MWR	E
Self:					
DoD Civilian Employees, IPA Personnel	No	No	No	1	No.
Non-DoD Government Agency Civilian Personnel	No	No	No	2	No.
DoD Contractors	No	No	No	2	No.

Note:

1. Yes, but the benefit is not printed on the DoD ID card and will be facilitated in accordance with DoD Instruction 1015.10.

2. Yes, if working full-time on the installation in accordance with DoD Instruction 1015.10. Benefit is not printed on the DoD ID card and will be facilitated in accordance with DoD Instruction 1015.10.

* * * *

TABLE 31 TO SUBPART C OF PART 161—BENEFITS FOR DoD CIVILIAN PERSONNEL STATIONED OR EMPLOYED OUTSIDE THE UNITED STATES AND OUTSIDE U.S. TERRITORIES AND POSSESSIONS AND ACCOMPANYING DEPENDENTS

	CHC	DC	C	MWR	E
Self:					
DoD Civilian Employee, IPA Personnel	No	1	Yes	Yes	Yes.
DoD Contractor	No	1	2	Yes	3.
Spouse	No	1	4	Yes	4.
Children, Unmarried, Under 21 Years:					
Legitimate, adopted, stepchild, Illegitimate child of employee, or Illegitimate child of spouse.	No	1, 5	5	5	5.
Ward	No	1, 6	6	6	6.
Pre-adoptive	No	1, 7	7	7	7.
Foster Child	No	No	5	5	5.
Children, Unmarried, 21 Years and Over	No	1, 8	9	9	9.
Parent, Parent-in-Law, Stepparent, or Parent-by-Adoption	No	1, 5	1, 5	5	5.

Notes:

1. Yes, on a space-available, fully reimbursable basis. Medical care at uniformed services facilities shall be rendered in accordance with Service instructions. Additional guidelines are contained in DoD Instruction 1100.22 and Volume 1231 of DoD Instruction 1400.25.

2. Yes, if a U.S. citizen and on a fully-reimbursable basis in accordance with DoD Instruction 1330.17 (not a local hire).

3. Yes, if a U.S. citizen assigned overseas.

4. Yes, if a dependent of an authorized sponsor and residing in the sponsor's household.

5. Yes, if dependent on an authorized sponsor for over 50 percent of the individual's support and residing in the sponsor's household.

6. Yes, if, for determination of dependency made on or after July 1, 1994, placed in the legal custody of the sponsor as a result of a court of competent jurisdiction in the United States (or possession of the United States) for a period of at least 12 consecutive months, and if dependent on the sponsor for over 50 percent of the child's support, and residing in the sponsor's household.

7. Yes, if, for determinations of dependency made on or after October 5, 1994, placed in the home of the sponsor by a placement agency (recognized by the Secretary of Defense) or by another source authorized by State or local law to provide adoption placement, in anticipation of the legal adoption by the sponsor.

8. Yes, if the child:

a. Has not attained the age of 23, is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary, and is dependent on the sponsor for over 50 percent of the child's support; or

b. Is incapable of self-support because of a mental or physical incapacity that existed before age 21, or occurred before the age of 23 while a full-time student while a dependent of a sponsor and is, dependent on the sponsor for over 50 percent of the child's support.

9. Yes, if the child:

a. Has not attained the age of 23, is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary, and is dependent on the sponsor for over 50 percent of the child's support; or

b. Is incapable of self-support because of a mental or physical incapacity, and is dependent on the sponsor for over 50 percent of the child's support.

* * * *

TABLE 32 TO SUBPART C OF PART 161—BENEFITS FOR NON-DoD GOVERNMENT AGENCY CIVILIAN PERSONNEL STATIONED OR EMPLOYED OUTSIDE THE UNITED STATES AND OUTSIDE U.S. TERRITORIES AND POSSESSIONS AND ACCOMPANYING DEPENDENTS

	CHC	DC	C	MWR	E
Self:					
Non-DoD Government Agency Civilian Personnel	No	1	2	Yes	2.
Spouse	No	1	3	Yes	3.
Children, Unmarried, Under 21 Years:					
Legitimate, adopted, stepchild, illegitimate child of employee, or illegitimate child of spouse.	No	1, 4	4	4	4.
Ward	No	1, 5	5	5	5.
Pre-adoptive	No	1, 6	6	6	6.
Foster Child	No	No	4	4	4.
Children, Unmarried, 21 Years and Over	No	1, 7	8	8	8.
Parent, Parent-in-Law, Stepparent, Parent-by-Adoption	No	1, 4	4	4	4.

Notes:

1. Yes, on a space-available, fully reimbursable basis. Medical care at uniformed services facilities shall be rendered in accordance with Service instructions. Additional guidelines are contained in DoD Instruction 1100.22 and Volume 1231 of DoD Instruction 1400.25.

2. Yes, in accordance with DoD Instruction 1330.17 and DoD Instruction 1330.21.

3. Yes, if a dependent of an authorized sponsor and residing in the sponsor's household.

4. Yes, if dependent on an authorized sponsor for over 50 percent of the individual's support and residing in the sponsor's household.

5. Yes, if, for determination of dependency made on or after July 1, 1994, placed in the legal custody of the sponsor as a result of a court of competent jurisdiction in the United States (or possession of the United States) for a period of at least 12 consecutive months, and if dependent on the sponsor for over 50 percent of the dependent's support, and residing in the sponsor's household.

6. Yes, if, for determinations of dependency made on or after October 5, 1994, placed in the home of the sponsor by a placement agency (recognized by the Secretary of Defense) or by another source authorized by State or local law to provide adoption placement, in anticipation of the legal adoption by the sponsor and dependent on an authorized sponsor for over 50 percent of the child's support.

7. Yes, if the child:

a. Has not attained the age of 23, is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary, and is dependent on the sponsor for over 50 percent of the child's support; or

b. Is incapable of self-support because of a mental or physical incapacity that existed before age 21, or occurred before the age of 23 while a full-time student while a dependent of a sponsor and is, dependent on the member or former member for over 50 percent of the child's support.

8. Yes, if the child:

a. Has not attained the age of 23, is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary, and is dependent on the sponsor for over 50 percent of the child's support; or

b. Is incapable of self-support because of a mental or physical incapacity and is dependent on the sponsor for over 50 percent of the child's support.

* * * * *

TABLE 33 TO SUBPART C OF PART 161—BENEFITS FOR CIVILIAN PERSONNEL STATIONED OR EMPLOYED IN U.S. TERRITORIES AND POSSESSIONS AND ACCOMPANYING DEPENDENTS

	CHC	DC	C	MWR	E
Self:					
DoD Civilian employee, IPA personnel	No	1	2	Yes	2.
Non-DoD Government Agency Civilian Personnel; DoD contractor.	No	1	No	3	No.
Spouse	No	1	4	4	4.
Children, Unmarried, Under 21 Years:					
Legitimate, adopted, stepchild, illegitimate child of employee or illegitimate child of spouse.	No	1, 5	5	5	5.
Ward	No	1, 6	6	6	6.
Pre-adoptive	No	1, 7	7	7	7.
Foster Child	No	No	5	5	5.
Children, Unmarried, 21 Years and Over	No	1, 8	9	9	9.
Parent, Parent-in-Law, Stepparent, Parent-by-Adoption	No	1, 5	No	5	5.

Notes:

1. Yes, on a space-available, fully reimbursable basis only if residing in a household on a military installation. Additional guidelines are contained in DoD Instruction 1100.22 and Volume 1231 of DoD Instruction 1400.25.

2. Yes, in accordance with DoD Instruction 1330.17 and DoD Instruction 1330.21.

3. Yes, if working full-time on the installation in accordance with DoD Instruction 1015.10. Benefit will not be printed on the DoD ID card and will be facilitated in accordance with DoD Instruction 1015.10.

4. Yes, if a dependent of an authorized sponsor and residing in the sponsor's household.

5. Yes, if dependent on an authorized sponsor for over 50 percent of the individual's support and residing in the sponsor's household.

6. Yes, if, for determination of dependency made on or after July 1, 1994, placed in the legal custody of the sponsor as a result of a court of competent jurisdiction in the United States (or possession of the United States) for a period of at least 12 consecutive months, and if dependent on the sponsor for over 50 percent of the child's support, and residing in the sponsor's household.

7. Yes, if, for determinations of dependency made on or after October 5, 1994, placed in the home of the sponsor by a placement agency (recognized by the Secretary of Defense) or by another source authorized by State or local law to provide adoption placement, in anticipation of the legal adoption by the sponsor and dependent on an authorized sponsor for over 50 percent of the child's support.

8. Yes, if the child:

a. Has not attained the age of 23, is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary, and is dependent on the sponsor for over 50 percent of the child's support; or

b. Is incapable of self-support because of a mental or physical incapacity that existed before age 21, or occurred before the age of 23 while a full-time student while a dependent of a sponsor, and is dependent on the sponsor for over 50 percent of the child's support.

9. Yes, if the child:

a. Has not attained the age of 23, is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary, and is dependent on the sponsor for over 50 percent of the child's support; or

b. Is incapable of self-support because of a mental or physical incapacity, and is dependent on the sponsor for over 50 percent of the child's support.

* * * * *

TABLE 35 TO SUBPART C OF PART 161—BENEFITS FOR FULL-TIME PAID PERSONNEL OF THE RED CROSS ASSIGNED TO DUTY WITH THE UNIFORMED SERVICES IN THE UNITED STATES AND RESIDING ON A MILITARY INSTALLATION AND ACCOMPANYING DEPENDENTS

	CHC	DC	C	MWR	E
Self	No	No	No	Yes	1.
Spouse	No	No	No	Yes	1, 2.
Children, Unmarried, Under 21 Years:					
Legitimate, adopted, stepchild, Illegitimate child of employee, illegitimate child of spouse, or foster child.	No	No	No	3	1, 3.
Ward	No	No	No	4	1, 4.
Pre-adoptive	No	No	No	5	1, 5.
Foster Child	No	No	No	3	1, 3.
Children, Unmarried, 21 Years and Over	No	No	No	6	1, 6.
Parent, Parent-in-Law, Stepparent, Parent-by-Adoption	No	No	No	3	1, 3.

Notes:

1. Yes, but subject to purchase restrictions in accordance with DoDI 1330.21.

2. Yes, if a dependent of an authorized sponsor, and residing in the sponsor's household.

3. Yes, if dependent on an authorized sponsor for over 50 percent of the individual's support and residing in the sponsor's household.

4. Yes, if, for determination of dependency made on or after July 1, 1994, placed in the legal custody of the sponsor as a result of a court of competent jurisdiction in the United States (or possession of the United States) for a period of at least 12 consecutive months, and if dependent on the sponsor for over 50 percent of the child's support, and residing in the sponsor's household.

5. Yes, if, for determinations of dependency made on or after October 5, 1994, placed in the home of the sponsor by a placement agency (recognized by the Secretary of Defense) or by another source authorized by State or local law to provide adoption placement, in anticipation of the legal adoption by the sponsor.

6. Yes, if the child:

a. Has not attained the age of 23, is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary, and is dependent on the sponsor for over 50 percent of the child's support; or

b. Is incapable of self-support because of a mental or physical incapacity that existed before age 21, or occurred before the age of 23 while a full-time student while a dependent of a sponsor, and is dependent on the sponsor for over 50 percent of the child's support.

* * * * *

TABLE 36 TO SUBPART C OF PART 161—BENEFITS FOR FULL-TIME PAID PERSONNEL OF THE RED CROSS ASSIGNED TO DUTY WITH THE UNIFORMED SERVICES OUTSIDE THE UNITED STATES AND ACCOMPANYING DEPENDENTS

	CHC	DC	C	MWR	E
Self	No	1	2	Yes	2.
Spouse	No	1	3	Yes	3.
Children, Unmarried, Under 21 Years:					
Legitimate, adopted, stepchild, Illegitimate child of employee or illegitimate child of spouse.	No	1, 4	4	4	4.
Ward	No	1, 5	5	5	5.
Pre-adoptive	No	1, 6	6	6	6.
Foster Child	No	No	4	4	4.
Children, Unmarried, 21 Years and Over	No	1, 7	8	8	8.
Parent, Parent-in-Law, Stepparent, or Parent-by-Adoption	No	1, 4	4	4	4.

Notes:

1. Yes, on a space-available basis at rates specified in uniformed services instructions. Additional guidelines are contained in DoD Instruction 1100.22 and Volume 1231 of DoD Instruction 1400.25.

2. Yes, if U.S. citizen assigned overseas.

3. Yes, if a dependent of an authorized sponsor and residing in the sponsor's household.

4. Yes, if a dependent on an authorized sponsor for over 50 percent of the individual's support and residing in the sponsor's household.

5. Yes, if, for determination of dependency made on or after July 1, 1994, placed in the legal custody of the sponsor as a result of a court of competent jurisdiction in the United States (or possession of the United States) for a period of at least 12 consecutive months, and if dependent on the sponsor for over 50 percent of the child's support, and residing in the sponsor's household.

6. Yes, if, for determinations of dependency made on or after October 5, 1994, placed in the home of the sponsor by a placement agency (recognized by the Secretary of Defense) or by another source authorized by State or local law to provide adoption placement, in anticipation of the legal adoption by the sponsor and dependent on an authorized sponsor for over 50 percent of the child's support.

7. Yes, if the child:

a. Has not attained the age of 23, is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary, and is dependent on the sponsor for over 50 percent of the child's support; or

b. Is incapable of self-support because of a mental or physical incapacity that existed before age 21, or occurred before the age of 23 while a full-time student while a dependent of a sponsor, and is dependent on the sponsor for over 50 percent of the child's support.

8. Yes, if the child:
- a. Has not attained the age of 23, is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary, and is dependent on the sponsor for over 50 percent of the child's support; or
- b. Is incapable of self-support because of a mental or physical incapacity and is dependent on the sponsor for over 50 percent of the child's support.

* * * * *

TABLE 37 TO SUBPART C OF PART 161—BENEFITS FOR FULL-TIME PAID PERSONNEL OF THE USO AND ACCOMPANYING DEPENDENTS SERVING OUTSIDE THE UNITED STATES

	CHC	DC	C	MWR	E
Self	No	1	2	Yes	2.
Spouse	No	1	3	Yes	3.
Children, Unmarried, Under 21 Years:					
Legitimate, adopted, stepchild, illegitimate child of employee, or illegitimate child of spouse.	No	1, 4	4	4	4.
Ward	No	No	5	5	5.
Foster child	No	No	4	4	4.
Children, Unmarried, 21 Years and Over	No	1, 5	7	7	7.
Parent, Parent-in-Law, Stepparent, or Parent-by-Adoption	No	1, 4	4	4	4.

Notes:

1. Yes, on a space-available, fully reimbursable basis. Additional guidelines are contained in DoD Instruction 1100.22 and Volume 1231 of DoD Instruction 1400.25.
2. Yes, if U.S. citizens assigned overseas.
3. Yes, if a dependent of an authorized sponsor and residing in the sponsor's household.
4. Yes, if dependent on an authorized sponsor for over 50 percent of the individual's support and residing in the sponsor's household.
5. Yes, if, for determination of dependency made on or after July 1, 1994, placed in the legal custody of the sponsor as a result of a court of competent jurisdiction in the United States (or possession of the United States) for a period of at least 12 consecutive months, and if dependent on the sponsor for over 50 percent of the child's support, and residing in the sponsor's household.
6. Yes, if the child:
- a. Has not attained the age of 23, is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary, and is dependent on the member sponsor for over 50 percent of the child's support; or
- b. Is incapable of self-support because of a mental or physical incapacity that existed before age 21, or occurred before the age of 23 while a full-time student while a dependent of a sponsor, and is dependent on the sponsor for over 50 percent of the child's support.
7. Yes, if the child:
- a. Has not attained the age of 23, is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary, and is dependent on the sponsor for over 50 percent of the child's support; or
- b. Is incapable of self-support because of a mental or physical incapacity and is dependent on the sponsor for over 50 percent of the child's support.

* * * * *

TABLE 38 TO SUBPART C OF PART 161—BENEFITS FOR FULL-TIME PAID PERSONNEL OF THE USS SERVING OUTSIDE THE UNITED STATES AND OUTSIDE U.S. TERRITORIES AND POSSESSIONS AND ACCOMPANYING DEPENDENTS

	CHC	DC	C	MWR	E
Self	No	1	No	Yes	No.
Spouse	No	1	No	Yes	No.
Children, Unmarried, Under 21 Years:					
Legitimate, adopted, stepchild, illegitimate child of employee, or illegitimate child of spouse.	No	1, 2	No	2	No.
Ward	No	No	No	3	No.
Foster Child	No	No	No	2	No.
Children, Unmarried, 21 Years and Over	No	1, 4	No	5	No.
Parent, Parent-in-Law, Stepparent, or Parent-by-Adoption	No	1, 2	No	2	No.

Notes:

1. Yes, on a space-available, fully reimbursable basis. Additional guidelines are contained in DoD Instruction 1100.22 and Volume 1231 of DoD Instruction 1400.25.
2. Yes, if dependent on an authorized sponsor for over 50 percent of the child's support and residing in the sponsor's household.
3. Yes, if, for determination of dependency made on or after July 1, 1994, placed in the legal custody of the sponsor as a result of a court of competent jurisdiction in the United States (or possession of the United States) for a period of at least 12 consecutive months, and if dependent on the sponsor for over 50 percent of the child's support, and residing in the sponsor's household.
4. Yes, if the child:
- a. Has not attained the age of 23, is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary, and is dependent on the sponsor for over 50 percent of the child's support; or
- b. Is incapable of self-support because of a mental or physical incapacity that existed before age 21, or occurred before the age of 23 while a full-time student while a dependent of a sponsor, and is dependent on the sponsor for over 50 percent of the child's support.
5. Yes, if the child:
- a. Has not attained the age of 23, is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary, and is dependent on the sponsor for over 50 percent of the child's support; or
- b. Is incapable of self-support because of a mental or physical incapacity, and is dependent on the sponsor for over 50 percent of the child's support.

* * * * *

TABLE 40 TO SUBPART C OF PART 161—BENEFITS FOR SHIP'S OFFICERS AND MEMBERS OF THE CREWS OF NOAA VESSELS (NOAA WAGE MARINER EMPLOYEES)

	CHC	DC	C	MWR	E
Self	No	No	Yes	Yes	Yes.
Spouse	No	No	Yes	Yes	Yes.
Children, Unmarried, Under 21 Years:					
Legitimate, adopted, stepchild, illegitimate child of employee, illegitimate child of spouse, or Foster Child.	No	No	1	1	1.
Ward	No	No	2	2	2.
Pre-adoptive	No	No	3	3	3.
Children, Unmarried, 21 Years and Over	No	No	4	4	4.
Parent, Parent-in-Law, Stepparent, Parent-by-Adoption	No	No	1	1	1.

Notes:

1. Yes, if dependent on an authorized sponsor for over 50 percent of the individual's support and residing in the sponsor's household.
2. Yes if, for determination of dependency made on or after July 1, 1994, placed in the legal custody of the sponsor as a result of a court of competent jurisdiction in the United States (or possession of the United States) for a period of at least 12 consecutive months, and if dependent on the sponsor for over 50 percent of the child's support, and residing in the sponsor's household.
3. Yes if, for determinations of dependency made on or after October 5, 1994, placed in the home of the sponsor by a placement agency (recognized by the Secretary of Defense) or by another source authorized by State or local law to provide adoption placement, in anticipation of the legal adoption by the sponsor.
4. Yes, if the child:
 - a. Has not attained the age of 23, is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary, and is dependent on the sponsor for over 50 percent of the child's support; or
 - b. Is incapable of self-support because of a mental or physical incapacity, and is dependent on the sponsor for over 50 percent of the child's support.

* * * * *

■ 19. Amend § 161.21 by revising Table 46 to Subpart C of Part 161 to read as follows:

§ 161.21 Benefits for retired civilian personnel.

* * * * *

TABLE 46 TO SUBPART C OF PART 161—BENEFITS FOR RETIRED NOAA WAGE MARINER EMPLOYEES AND THEIR ELIGIBLE DEPENDENTS

	CHC	DC	C	MWR	E
Self	No	No	Yes	Yes	Yes.
Spouse	No	No	Yes	Yes	Yes.
Children, Unmarried, Under 21 Years:					
Legitimate, adopted, stepchild, illegitimate child of record of female member, illegitimate child of male member, whose paternity has been judicially determined, or foster child.	No	No	1	1	1.
Ward	No	No	2	2	2.
Pre-adoptive Child	No	No	3	3	3.
Children, Unmarried, 21 Years and Over	No	No	4	4	4.

Notes:

1. Yes, if dependent on an authorized sponsor for over 50 percent of the child's support and residing in the sponsor's household.
2. Yes, if, for determinations of dependency made on or after July 1, 1994, placed in the legal custody of the sponsor or former member as a result of a court of competent jurisdiction in the United States (or possession of the United States) for a period of at least 12 consecutive months, and if dependent on the sponsor for over 50 percent of the child's support, and residing in the sponsor's household.
3. Yes, if, for determinations of dependency made on or after October 5, 1994, placed in the home of the sponsor by a placement agency (recognized by the Secretary of Defense) or by another source authorized by State or local law to provide adoption placement, in anticipation of the legal adoption by the sponsor.
4. Yes, if the child:
 - a. Has not attained the age of 23, is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary, and is dependent on the sponsor for over 50 percent of the child's support; or
 - b. Is incapable of self-support because of a mental or physical incapacity, and is dependent on the sponsor for over 50 percent of the child's support.

■ 20. Amend § 161.22 by revising Tables 47, 48, 49, 50, and 54 to Subpart C of Part 161 to read as follows:

§ 161.22 Benefits for foreign affiliates.

* * * * *

TABLE 47 TO SUBPART C OF PART 161—BENEFITS FOR SPONSORED NATO AND PFP PERSONNEL AND ACCOMPANYING DEPENDENTS IN THE UNITED STATES

	CHC	DC	C	MWR	E
Self	No	1	2	2	2.
Spouse	3	1	4	4	4.
Children, Unmarried, Under 21 Years:					
Legitimate, adopted, stepchild, illegitimate child of member, or illegitimate child of spouse.	3, 4	1, 4	4	4	4.
Ward	No	No	5	5	5.
Children, Unmarried, 21 Years and Over	3, 6	1, 6	7	7	7.
Parent, Parent-in-Law, Stepparent, or Parent by Adoption	No	No	4	4	4.

Notes:

1. Yes, for outpatient care no charge and for inpatient care at full reimbursable rate.
2. Yes, if:
 - a. Under orders issued by a U.S. Military Service; or
 - b. Assigned military attaché duties in the United States and designated on reciprocal agreements with the Department of State.
3. Yes, for outpatient care only.
4. Yes, if residing in the household of the authorized sponsor in the United States.
5. Yes, if, for determination of dependency made on or after July 1, 1994, placed in the legal custody of the sponsor as a result of a court of competent jurisdiction in the United States (or possession of the United States) for a period of at least 12 consecutive months, and if residing in the authorized sponsor's household.
6. Yes, if residing in the household of the authorized sponsor in the United States and the child:
 - a. Has not attained the age of 23, is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary, and is dependent on the sponsor for over 50 percent of the child's support; or
 - b. Is incapable of self-support because of a mental or physical incapacity that existed before age 21, or occurred before the age of 23 while a full-time student while a dependent of a sponsor, and is dependent on the sponsor for over 50 percent of the child's support.
7. Yes, if the child:
 - a. Has not attained the age of 23, is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary, and is dependent on the sponsor for over 50 percent of the child's support; or
 - b. Is incapable of self-support because of a mental or physical, and is dependent on the sponsor for over 50 percent of the child's support.

* * * * *

TABLE 48 TO SUBPART C OF PART 161—BENEFITS FOR SPONSORED NON-NATO PERSONNEL AND ACCOMPANYING DEPENDENTS IN THE UNITED STATES

	CHC	DC	C	MWR	E
Self	No	1	2	2	2.
Spouse	No	1	3	3	3.
Children, Unmarried, Under 21 Years:					
Legitimate, adopted, stepchild, illegitimate child of member, or illegitimate child of spouse.	No	1, 4	3	3	3.
Ward	No	No	4	4	4.
Children, Unmarried, 21 Years and Over	No	1, 5	6	6	6.
Parent, Parent-in-Law, Stepparent, or Parent by Adoption	No	No	3	3	3.

Notes:

1. Yes, for outpatient care only on a reimbursable basis.
2. Yes, if under orders issued by a U.S. Military Service.
3. Yes, if residing in the household of the authorized sponsor in the United States.
4. Yes, if, for determination of dependency made on or after July 1, 1994, placed in the legal custody of the sponsor as a result of a court of competent jurisdiction in the United States (or possession of the United States) for a period of at least 12 consecutive months, and if residing in the authorized sponsor's household.
5. Yes, if residing in the household of the authorized sponsor in the United States and the child:
 - a. Has not attained the age of 23, is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary, and is dependent on the sponsor for over 50 percent of the child's support; or
 - b. Is incapable of self-support because of a mental or physical incapacity that existed before age 21, or occurred before the age of 23 while a full-time student while a dependent of a sponsor, and is dependent on the sponsor for over 50 percent of the child's support.
6. Yes, if residing in the household of the authorized sponsor in the United States and the child:
 - a. Has not attained the age of 23, is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary, and is dependent on the sponsor for over 50 percent of the child's support; or
 - b. Is incapable of self-support because of a mental or physical, and is dependent on the sponsor for over 50 percent of the child's support.

* * * * *

TABLE 49 TO SUBPART C OF PART 161—BENEFITS FOR NON-SPONSORED NATO AND PFP PERSONNEL IN THE UNITED STATES AND ACCOMPANYING DEPENDENTS

	CHC	DC	C	MWR	E
Self	No	1	No	No	No.
Spouse	2	1	No	No	No.
Children, Unmarried, Under 21 Years:					

TABLE 49 TO SUBPART C OF PART 161—BENEFITS FOR NON-SPONSORED NATO AND PFP PERSONNEL IN THE UNITED STATES AND ACCOMPANYING DEPENDENTS—Continued

	CHC	DC	C	MWR	E
Legitimate, adopted, stepchild, illegitimate child of member, or illegitimate child of spouse.	2, 3	1, 3	No	No	No.
Ward	No	No	No	No	No.
Children, Unmarried, 21 Years and Over	2, 3, 4	1, 3, 4	No	No	No.
Parent, Parent-in-Law, Stepparent, or Parent by Adoption	No	No	No	No	No.

Notes:

1. Yes, for outpatient care no charge and for inpatient care at full reimbursable rate.
2. Yes, for outpatient care only.
3. Yes, if residing in the household of the authorized sponsor in the United States.
4. Yes, if residing in the household of the authorized sponsor in the United States and the child:
 - a. Has not attained the age of 23, is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary, and is dependent on the sponsor for over 50 percent of the child's support; or
 - b. Is incapable of self-support because of a mental or physical incapacity that existed before age 21, or occurred before the age of 23 while a full-time student while a dependent of a sponsor, and is dependent on the sponsor for over 50 percent of the child's support.

* * * * *

TABLE 50 TO SUBPART C OF PART 161—BENEFITS FOR NATO, PFP, AND NON-NATO PERSONNEL OUTSIDE THE UNITED STATES AND ACCOMPANYING DEPENDENTS

	CHC	DC	C	MWR	E
Self	No	1	Yes	Yes	Yes.
Spouse	No	1	Yes	Yes	Yes.
Children, Unmarried, Under 21 Years:					
Legitimate, adopted, stepchild, illegitimate child of member, or illegitimate child of spouse.	No	1, 2	2	2	2.
Ward	No	No	3	3	3.
Children, Unmarried, 21 Years and Over	No	1, 4	5	5	5.
Parent, Parent-in-Law, Stepparent, or Parent by Adoption	No	No	2	2	2.

Notes:

1. Yes, for outpatient care only on a reimbursable basis.
2. Yes, if residing in the household of the authorized sponsor and dependent on over 50 percent support.
3. Yes, if, for determination of dependency made on or after July 1, 1994, placed in the legal custody of the sponsor as a result of a court of competent jurisdiction in the United States (or possession of the United States) for a period of at least 12 consecutive months, and if dependent on the sponsor for over 50 percent of the child's support, and residing in the sponsor's household.
4. Yes, if residing in the household of the authorized sponsor and the child:
 - a. Has not attained the age of 23, is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary, and is dependent on the sponsor for over 50 percent of the child's support; or
 - b. Is incapable of self-support because of a mental or physical incapacity that existed before age 21, or occurred before the age of 23 while a full-time student while a dependent of a sponsor, and is dependent on the sponsor for over 50 percent of the child's support.
5. Yes, if residing in the household of the authorized sponsor in the United States and the child:
 - a. Has not attained the age of 23, is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary, and is dependent on the sponsor for over 50 percent of the child's support; or
 - b. Is incapable of self-support because of a mental or physical, and is dependent on the sponsor for over 50 percent of the child's support.

* * * * *

TABLE 54 TO SUBPART C OF PART 161—BENEFITS FOR FOREIGN FORCE MEMBERS AND ELIGIBLE DEPENDENTS RESIDING IN THE UNITED STATES WHO ARE COVERED BY AN RHCA

	CHC	DC	C	MWR	E
Self	No	1	No	No	No.
Spouse	No	1	No	No	No.
Children, Unmarried, Under 21 Years:					
Legitimate, adopted, stepchild, illegitimate child of member, or illegitimate child of spouse.	No	1, 2	No	No	No.
Ward	No	No	No	No	No.
Children, Unmarried, 21 Years and Over	No	1, 2, 3	No	No	No.
Parent, Parent-in-Law, Stepparent, or Parent by Adoption	No	No	No	No	No.

Notes:

1. As determined by the appropriate RHCA.
2. Yes, if residing in the household of the authorized sponsor in the United States.
3. Yes, if residing in the household of the authorized sponsor in the United States, the child:
 - a. Has not attained the age of 23, is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary, and is dependent on the sponsor for over 50 percent of the child's support; or
 - b. Is incapable of self-support because of a mental or physical incapacity that existed before age 21, or occurred before the age of 23 while a full-time student while a dependent of a sponsor, and is dependent on the sponsor for over 50 percent of the child's support.

- 21. Amend § 161.23 by:
 ■ a. Revising Tables 11, 17, 22, 23, 25, 36, and 37 to Subpart D of Part 161;
 ■ b. In paragraph (g)(4), adding “Full-time paid personnel of the” before

“USO serving outside the United States.” and
 ■ c. Revising paragraph (k) introductory text and paragraph (k)(2).
 The revisions read as follows:

§ 161.23 Procedures.

* * * * *

TABLE 11 TO SUBPART D OF PART 161—ELIGIBILITY DOCUMENTATION REQUIRED FOR A SURVIVING DEPENDENT

Status	Eligibility documentation
Widow or Widower:	
Unremarried	Marriage certificate to sponsor (Note 1) and Death certificate of sponsor or DD Form 1300, “Report of Casualty,” (for sponsor only).
Unmarried	Marriage certificate to sponsor (Note 1) and Death certificate of sponsor or DD Form 1300, “Report of Casualty,” (for sponsor only) and Marriage certificate from subsequent marriage (Note 1) and Divorce decree from subsequent marriage (Note 2) or Death certificate from subsequent marriage.
Dependent	Dependent documentation (Note 3).

Notes:

1. A common law marriage certificate, a court order, or a written SJA opinion that a common law marriage is recognized by the relevant State or U.S. jurisdiction is also accepted.
2. A dissolution decree or annulment decree is also accepted.
3. Eligible dependents, as identified in subpart C of this part, are required to establish their relationship to the sponsor as specified in Tables 1 through 10 of this subpart, if the relationship has not previously been established.

* * * * *

TABLE 17 TO SUBPART D OF PART 161—ELIGIBILITY DOCUMENTATION REQUIRED FOR A RETIRED RESERVE MEMBER AND DEPENDENTS

Status	Eligibility documentation
Retired Reserve Member	Retired pay orders (Note 1) or DD Form 214 (Note 2).
Retired Reserve Member ordered to active duty.	DD Form 214 (Note 2) or Military order (Note 3) or Commissioning oath (Note 3) or Enlistment contract (Note 3).
Dependent	Dependent documentation (Note 4).

Notes:

1. Retired pay orders, establishing the uniformed service member's eligibility for retired pay at age 60.
2. A DD Form 214 that establishes the uniformed service member's service can be used when DEERS verification is not available. A statement of service or dates of inclusive service for servicing personnel may be used in lieu of the DD Form 214.
3. Documentation establishing the uniformed service member being ordered to active duty for greater than 30 days.
4. Eligible dependents, as identified in subpart C of this part, must establish their relationship to the sponsor as specified in Tables 1 through 10 of this subpart, if the relationship has not previously been established.

* * * * *

(g) * * *

TABLE 22 TO SUBPART D OF PART 161—ELIGIBILITY DOCUMENTATION REQUIRED FOR CIVILIAN PERSONNEL RESIDING ON A MILITARY INSTALLATION IN THE UNITED STATES AND ACCOMPANYING DEPENDENTS

Status	Eligibility documentation
Civilian: DoD civilian employee, DoD contractor, Intergovernmental Personnel Act personnel, non-DoD government agency civilian personnel under DoD sponsorship.	Travel authorization (Note 1).
Dependent	Travel authorization (Note 2) and Dependent documentation (Note 3).

Notes:

1. A travel authorization produced by the sponsoring DoD Component authorizing the sponsor to reside on a military installation.
2. A travel authorization produced by the sponsoring DoD Component authorizing eligible dependents to accompany the sponsor.
3. Eligible dependents, as identified in subpart C of this part, are required to establish their relationship to the sponsor, as specified in Tables 1 through 12 of this subpart, if the relationship has not previously been established.

* * * * *

TABLE 23 TO SUBPART D OF PART 161—ELIGIBILITY DOCUMENTATION REQUIRED FOR CIVILIAN PERSONNEL STATIONED OUTSIDE THE UNITED STATES AND ACCOMPANYING DEPENDENTS

Status	Eligibility documentation
Civilian: DoD civilian employee, DoD contractor, Intergovernmental Personnel Act personnel, non-DoD government agency civilian personnel under DoD sponsorship, DoD contractor authorized to accompany the Armed Forces (CAAF).	Travel authorization (Note 1) and SPOT LOA (Note 2, 3).
Dependent	Dependent documentation (Note 4) and Travel authorization (Note 5) or SPOT LOA (Note 5).

Notes:

1. A travel authorization produced by the sponsoring DoD Component, indicating an assignment outside the United States.
2. A SPOT LOA that designates the contractor as CAAF, if a CAAF in accordance with DoD Instruction 3020.41, "Operational Contract Support (OCS)" (available at: <http://www.dtic.mil/whs/directives/corres/pdf/302041p.pdf>).
3. A SPOT LOA, if applicable in accordance with Combatant Command guidance.
4. Eligible dependents, as identified in subpart C of this part, are required to establish their relationship to the sponsor as specified in Tables 1 through 10 of this subpart, if the relationship has not previously been established.
5. A travel authorization produced by the sponsoring DoD Component or SPOT LOA authorizing eligible dependents to accompany the sponsor.

* * * * *

(4) *United Service Organizations (USO) personnel.* Full-time paid personnel of the USO serving outside the United States and outside U.S. territories and possessions and accompanying dependents must have eligibility verified by documentation shown in Table 25 to this subpart.

TABLE 25 TO SUBPART D OF PART 161—ELIGIBILITY DOCUMENTATION REQUIRED FOR FULL-TIME PAID PERSONNEL OF THE USO AND ACCOMPANYING DEPENDENTS

Status	Eligibility documentation
USO Employee	Travel authorization (Note 1).
Dependent	Travel authorization (Note 2) and Dependent documentation (Note 3).

Notes:

1. A travel authorization produced by the sponsoring DoD Component.
2. A travel authorization produced by the sponsoring DoD Component authorizing eligible dependents to accompany the sponsor.
3. Eligible dependents, as identified in subpart C of this part, are required to establish their relationship to the sponsor, as specified in Tables 1 through 10 of this subpart, if the relationship has not previously been established.

* * * * *

(k) Documentation required to change a gender marker in DEERS. This paragraph (k) describes documentation required to request a change to a retiree's, a dependent's, or a contractor employee's gender marker in DEERS. Requests to change a gender marker require submission of documentation listed in Table 33 to this subpart. All requests by retirees, dependents, and contractor employees to change gender markers must be submitted by the sponsor's responsible uniformed service project office or sponsoring agency to DoDHRA.

* * * * *

(2) These documentation requirements do not apply nor can they be used to change the gender marker of a military Service member.

* * * * *

TABLE 33 TO SUBPART D OF PART 161—DOCUMENTATION REQUIRED TO CHANGE A GENDER MARKER IN DEERS

Status	Documentation
Retiree, Dependent, or Contractor (Note 1).	Written statement signed by the individual indicating their preferred gender identity.

Note:

1. Includes other ID card eligible populations managed by the Trusted Associate Sponsorship System for which DEERS is the authoritative source.

* * * * *

TABLE 36 TO SUBPART D OF PART 161—DOCUMENTATION REQUIRED TO MODIFY A NAME OR DATE OF BIRTH IN DEERS TO CORRECT AN ADMINISTRATIVE ERROR

Status	Documentation
Sponsor or Dependent	Federal Information Processing Standards (FIPS) Publication (Pub) 201-3, "Personal Identity Verification (PIV) of Federal Employees and Contractors," Identity Proofing and Registration Requirements primary and secondary identity source documentation (Note).

Note: Documentation from the FIPS Pub 201-3, PIV Identity Proofing and Registration Requirements primary and secondary identity source document lists that establishes name or date of birth.

* * * * *

TABLE 37 TO SUBPART D OF PART 161—DOCUMENTATION REQUIRED TO MODIFY A GENDER MARKER IN DEERS TO CORRECT AN ADMINISTRATIVE ERROR

Status	Documentation
Sponsor or Dependent	Birth certificate and FIPS Pub 201–3 “Personal Identity Verification (PIV) of Federal Employees and Contractors,” Identity Proofing and Registration Requirements primary and secondary identity source documentation (Note).

Note: Documentation from the FIPS Pub 201–3, PIV Identity Proofing and Registration Requirements primary and secondary identity source document lists that establishes gender.

* * * * *

Dated: February 5, 2024.

Patricia Toppings,

*OSD Federal Register Liaison Officer,
Department of Defense.*

[FR Doc. 2024–02621 Filed 2–13–24; 8:45 am]

BILLING CODE 6001–FR–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[EPA–HQ–OAR–2002–0049; FRL–8150.1–03–OAR]

New Source Performance Standards Review for Steel Plants: Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels; Corrections

AGENCY: Environmental Protection Agency (EPA).

ACTION: Interim final rule; request for comment.

SUMMARY: The Environmental Protection Agency (EPA) is taking interim final action on corrections and clarifications to the new source performance standards (NSPS) for electric arc furnaces and argon-oxygen decarburization vessels in the steel industry. The corrections and clarifications are being made to address unintended and inadvertent errors in the recently finalized standards.

DATES: This interim final rule is effective on February 14, 2024. Comments on this rule must be received on or before March 15, 2024.

ADDRESSES: You may send comments, identified by Docket ID No. EPA–HQ–OAR–2002–0049 by any of the following methods:

- *Federal eRulemaking Portal:* <https://www.regulations.gov> (our preferred method). Follow the online instructions for submitting comments.
- *Email:* a-and-r-docket@epa.gov. Include Docket ID No. EPA–HQ–OAR–2002–0049 in the subject line of the message.

- *Fax:* (202) 566–9744. Attention Docket ID No. EPA–HQ–OAR–2002–0049.
- *Mail:* U.S. Environmental Protection Agency, EPA Docket Center, Docket ID No. EPA–HQ–OAR–2002–0049, Mail Code 28221T, 1200 Pennsylvania Avenue NW, Washington, DC 20460.
- *Hand/Courier Delivery:* EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Avenue NW, Washington, DC 20004. The Docket Center’s hours of operation are 8:30 a.m.–4:30 p.m., Monday–Friday (except Federal Holidays).

Comments received may be posted without change to <https://www.regulations.gov>, including any personal information provided. For detailed instructions on sending comments, see the “*Public Participation*” heading of the General Information section of this document under **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT:

Donna Lee Jones, Sector Policies and Programs Division (D243–02), 109 T.W. Alexander Drive, P.O. Box 12055, Office of Air Quality Planning and Standards, United States Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–5251; email address: jones.donnalee@epa.gov.

Preamble acronyms and abbreviations. Throughout this document the use of “we,” “us,” or “our” is intended to refer to the EPA. We use multiple acronyms and terms in this preamble. While this list may not be exhaustive, to ease the reading of this preamble and for reference purposes, the EPA defines the following terms and acronyms here:

AOD argon-oxygen decarburization
APA Administrative Procedure Act
BLDS bag leak detection system
CAA Clean Air Act
CBI confidential business information
CFR Code of Federal Regulations
CRA Congressional Review Act
DCOT during the digital camera opacity technique
DEC direct shell evacuation control
EAF electric arc furnace

EPA Environmental Protection Agency
FR Federal Register
FTP File Transfer Protocol
NAICS North American Industry Classification System
NSPS new source performance standards
NTTAA National Technology Transfer and Advancement Act
OMB Office of Management and Budget
PM particulate matter
PRA Paperwork Reduction Act
RFA Regulatory Flexibility Act
UMRA Unfunded Mandates Reform Act of 1995
U.S. United States of America
U.S.C. United States Code

Organization of this document. The information in this preamble is organized as follows:

- I. General Information
 - A. Public Participation
 - B. Potentially Affected Entities
 - C. Statutory Authority
 - D. Judicial Review and Administrative Review
- II. Regulatory Revisions
 - A. Background and Summary
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- III. Rulemaking Procedures
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- V. Statutory and Executive Order Reviews
 - A. Executive Order 12866: Regulatory Planning and Review, as Amended by Executive Order 14094: Modernizing Regulatory Review
 - B. Paperwork Reduction Act (PRA)
 - C. Regulatory Flexibility Act (RFA)
 - D. Unfunded Mandates Reform Act of 1995 (UMRA)
 - E. Executive Order 13132: Federalism
 - F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments
 - G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks
 - H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use
 - I. National Technology Transfer and Advancement Act (NTTAA) and 1 CFR Part 51
 - J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations and Executive Order 14096: Revitalizing our Nation’s Commitment to Environmental Justice for All
 - K. Congressional Review Act (CRA)