OFFICE OF THE SECRETARY OF DEFENSE
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WASHINGTON, DC 20301-1950

ADMINISTRATION AND
MANAGEMENT

MAY 1 2012

MEMORANDUM FOR COMMITTEE MANAGEMENT SECRETARIAT
GENERAL SERVICES ADMINISTRATION

SUBJECT: Committee Charter and Membership Balance Plan Consultation – *Uniform Formulary Beneficiary Advisory Panel*

The Department of Defense, pursuant to the Federal Advisory Committee Act of 1972, as amended, intends to renew the charter for the *Uniform Formulary Beneficiary Advisory Panel* (attached). The Panel will operate under the provisions of the Federal Advisory Committee Act of 1972, as amended and in accordance with 41 CFR § 102-3.50.

Prior to filing the Panel's charter with the Library of Congress and the appropriate congressional committees the Department of Defense respectively requests that the Committee Management Secretariat review and approve the proposed charter and membership balance plan (attached). Both documents has been reviewed and approved by the Office of the General Counsel for the Department of Defense.

If you should have any questions about this charter please contact my point of contact, Len O'Reilly, at 703-692-5949.

James D. Freeman II
Advisory Committee Management
Officer for the Department of Defense

Attachments
Proposed Charter
Proposed Membership Balance Plan

CHARTER
UNIFORM FORMULARY BENEFICIARY ADVISORY PANEL

1. Committee's Official Designation: The committee shall be known as the Uniform Formulary Beneficiary Advisory Panel (hereafter referred to as "the Panel").

2. Authority: The Secretary of Defense, under the provision of 10 U.S.C. § 1074g(c), the Federal Advisory Committee Act (FACA) of 1972 (5 U.S.C., Appendix, as amended) and 41 CFR § 102-3.50(a) (required by statute), established the Panel.

3. Objectives and Scope of Activities: The Panel shall provide independent advice and recommendation on the development of the uniform formulary, as set out in (4) below.

4. Description of Duties: The Panel shall provide the Secretary of Defense, through the Under Secretary of Defense for Personnel and Readiness, the Assistant Secretary of Defense for Health Affairs and the Director, TRICARE Management Activity, independent advice and recommendations on the development of the uniform formulary. The Secretary of Defense shall consider the comments of the Panel before implementing the uniform formulary or implementing changes to the uniform formulary.

5. Agency or Official to Whom the Committee Reports: The Panel shall report to the Secretary of Defense through the Under Secretary of Defense for Personnel and Readiness, the Assistant Secretary of Defense for Health Affairs, and the Director, TRICARE Management Activity. The Under Secretary of Defense for Personnel and Readiness, or designated representative, may act upon the Panel's advice and recommendations.

6. Support: The DoD, through the Office of the Under Secretary of Defense for Personnel and Readiness and the TRICARE Management Activity, shall provide support as deemed necessary for the performance of the Panel's functions, and shall ensure compliance with the requirements of the FACA, the Government in the Sunshine Act of 1976 (5 U.S.C. § 552b) (hereafter referred to as "the Government in the Sunshine Act"), governing Federal statutes and regulations, and governing DoD policies/procedures.

   Additional information and assistance, as required, may be obtained from other DoD Components with contracting authority and from support contractors, including DoD Federally Funded Research and Development Centers for studies and analysis support.

7. Estimated Annual Operating Costs and Staff Years: The estimated annual operating costs to include travel, meeting and contract support, is approximately $85,500.00 and 0.25 full-time equivalents.

8. Designated Federal Officer: The Designated Federal Officer, pursuant to DoD policy, shall be a full-time or permanent part-time DoD employee, and shall be appointed in accordance with governing DoD policies/procedures.

   In addition, the Designated Federal Officer is required to be in attendance at all Panel and subcommittee meetings for the entire duration of each and every meeting; however, in the absence of the Designated Federal Officer, a properly approved Alternate Designated Federal Officer shall attend the entire duration of the Panel or subcommittee meeting.

   The Designated Federal Officer, or the Alternate Designated Federal Officer, shall call all of the Panel's and subcommittees' meetings; prepare and approve all meeting agendas; adjourn any meeting when the Designated Federal Officer, or the Alternate Designated Federal Officer, determines adjournment to be in the public interest or required by governing regulations or DoD policies/procedures; and chair meetings when directed to do so by the official to whom the Panel reports.

9. Estimated Number and Frequency of Meetings: The Panel shall meet at the call of the Panel's Designated Federal Officer, in consultation with the Panel's Chairperson. The estimated number of Panel meetings is four per year.

10. Duration: The need for this advisory function is on a continuing basis; however, this charter is subject to renewal every two years.

11. Termination: The Panel shall terminate upon completion of its mission or two years from the date this charter is filed, whichever is sooner, unless the Secretary of Defense extends it.

12. Membership and Designation: The Panel, pursuant to 10 U.S.C. § 1074g(c)(2), shall be comprised of no more than 15 members. The Panel shall include members that represent:

    a. Non-governmental organizations and associations that represent the views and interests of a large number of eligible covered beneficiaries;

    b. Contractors responsible for the TRICARE retail pharmacy program;

    c. Contractors responsible for the national mail-order pharmacy program; and

    d. TRICARE network providers.

    Panel members, who are not full-time or permanent part-time Federal officers or employees, shall be appointed to serve as experts and consultants under the authority of 5 U.S.C. § 3109 and shall serve as special government employees. All

Panel members shall be appointed by the Secretary of Defense and their appointments shall be renewed on an annual basis.

The Panel membership shall select the Panel's Chairperson from the total membership.

With the exception of travel and per diem for official Panel related travel, Panel members shall serve without compensation.

The Secretary of Defense may approve the appointment of Panel members for one to four year terms of service; however, no member, unless authorized by the Secretary of Defense, may serve more than two consecutive terms of service. This same term of service limitation also applies to any DoD authorized subcommittees.

Each Panel member is appointed to provide advice on behalf of the government on the basis of his or her best judgment without representing any particular point of view and in a manner that is free from conflict of interest.

13. Subcommittees: The Department, when necessary, and consistent with the Panel's mission and DoD policies and procedures, may establish subcommittees to support the Panel. Establishment of subcommittees will be based upon a written determination, to include terms of reference, by the Secretary of Defense, the Deputy Secretary of Defense or the Panel's sponsor.

Such subcommittees shall not work independently of the chartered Panel, and shall report all their recommendations and advice to the Panel for full deliberation and discussion. Subcommittees have no authority to make decisions on behalf of the chartered Panel; nor can any subcommittee or its members update or report directly to the DoD or any Federal officers or employees. Subcommittees shall comply with FACA.

All subcommittee members shall be appointed in the same manner as the Panel members; that is, the Secretary of Defense shall appoint subcommittee members even if the member in question is already a Panel member. Subcommittee members, with the approval of the Secretary of Defense, may serve a term of service on the subcommittee of one to four years.

Subcommittee members, if not full-time or part-time government employees, shall be appointed to serve as experts and consultants under the authority of 5 U.S.C. § 3109, and shall serve as special government employees, whose appointments must be renewed by the Secretary of Defense on an annual basis. With the exception of travel and per diem for official Panel related travel, subcommittee members shall serve without compensation.

All subcommittees operate under the provisions of FACA, the Government in the Sunshine Act, governing Federal statutes and regulations, and governing DoD policies/procedures.

14. Recordkeeping: The records of the Panel and its subcommittees shall be handled according to section 2, General Record Schedule 26 and appropriate DoD policies and procedures. These records shall be available for public inspection and copying, subject to the Freedom of Information Act of 1966 (5 U.S.C. § 552).

15. Filing Date:

Membership Balance Plan
Uniform Formulary Beneficiary Advisory Panel

Agency: Department of Defense (DoD)

1. **Authority:** The Secretary of Defense, under the provision of 10 U.S.C. § 1074g(c), the Federal Advisory Committee Act (FACA) of 1972, (5 U.S.C., Appendix, as amended) and 41 CFR § 102-3.50(a) (required by statute), established the Uniform Formulary Beneficiary Advisory Panel (hereafter referred to as "the Panel").

2. **Mission/Function:** The Panel under the provisions of FACA shall provide independent advice and recommendations to the Secretary of Defense through the Under Secretary of Defense for Personnel and Readiness, the Assistant Secretary of Defense for Health Affairs, and the Director, TRICARE Management Activity on the development of the uniform formulary.

3. **Points of View:** The Panel, pursuant to 10 U.S.C. § 1074g(c)(2), shall be comprised of no more than 15 members and shall include members that represent:

   a. Non-governmental organizations and associations that represent the views and interests of a large number of eligible covered beneficiaries;

   b. Contractors responsible for the TRICARE retail pharmacy program;

   c. Contractors responsible for the national mail-order pharmacy program; and

   d. TRICARE network providers.

   The Panel membership shall select the Panel's Chairperson from the total membership.

   Each member, based upon his or her individual and professional experiences, provides his or her best judgment on the matters before the Panel, and he or she does so without representing any particular point of view and in a manner that is free from conflict of interest. Panel members appointed by the Secretary of Defense, who are not full-time or permanent part-time Federal officers of employees, shall be appointed to serve as experts and consultants under the authority of 5 U.S.C. § 3109 and to serve as special government employees. Panel members shall be appointed on an annual basis by the Secretary of Defense.

   The Panel's membership balance is not static and the Secretary of Defense may change the membership based upon work assigned to the Panel by the Secretary of Defense, the Deputy Secretary of Defense, or the Panel's sponsor. In addition, the Department, unless otherwise directed by an Act of Congress or Presidential directive, does not use representative members on DoD established or supported advisory committees.

4. **Other Balance Factors:** Other criteria intended to help maintain a balanced membership on the Panel, are knowledge and familiarity of the TRICARE pharmacy benefit as well as the experience and background needed to understand the pharmaceutical and scientific materials provided at the Panel's meetings.

Panel members who represent beneficiary associations are recruited from the Military Coalition and the National Military and Veterans Alliance. They represent over 4.2 million members and 56 various military associations and groups, they also represent the views and interests of a large number of eligible beneficiaries worldwide.

5. **Candidate Identification Process:** The DoD, in selecting potential candidates for this advisory committee, reviews the educational and professional credentials of individuals with extensive backgrounds in organizations and associations that represent the views and interests of a large number of eligible covered beneficiaries; contractors responsible for the TRICARE retail pharmacy program; contractors responsible for the national mail-order pharmacy program; and TRICARE network providers.

   Potential candidates are identified when the Panel's Designated Federal Officer and the Panel's professional staff request nominees from the Military Coalition, the National Military and Veterans Alliance, pharmacy contractors, and the TRICARE network providers from each region. Once potential nominees are compiled their credentials are reviewed by the Designated Federal Officer in consultation with the Chief, Pharmaceutical Operations Directorate, and the Director TRICARE Management Activity, or designee. The list of potential candidates is then forwarded to the Assistant Secretary of Defense for Health Affairs for review prior to submission to the Under Secretary of Defense for Personnel and Readiness.

   Once potential candidates are identified, the Under Secretary of Defense for Personnel and Readiness reviews the credentials of each individual and narrows the list of potential candidates. During the Under Secretary's review, he or she strives to achieve a balance between the educational and professional credentials of the individuals and the anticipated subject matters that will be reviewed by the Panel to achieve expertise in points of view regarding anticipated topics.

   Prior to nominating the potential candidates, the list of candidates will undergo a review by the DoD Office of General Counsel and the Office of the Advisory Committee Management Officer to ensure compliance with Federal and DoD governance requirements; for example, compliance with the advisory committee's charter and membership balance plan. Following this review, the Under Secretary of Defense for Personnel and Readiness formally nominates the potential candidates to the Secretary of Defense for approval; pursuant to DoD policy, only the Secretary or the Deputy Secretary of Defense can invite or approve the appointment of individuals to advisory committees established or supported by the Department.

   Following the Secretary or Deputy Secretary approval, the candidates are required to complete the necessary appointment paperwork, to include meeting ethics requirements stipulated by the Office of Government Ethics for advisory committee members.

   Panel and subcommittee member vacancies will be filled in the same manner as described in the previous four paragraphs above.

   The Secretary of Defense may approve the appointment of Panel members for one to four year terms of service; however, no member, unless authorized by the Secretary, may serve more than two

consecutive terms of service. This same term of service limitation also applies to any DoD authorized subcommittees for the Panel.

6. **Subcommittee Balance:** The DoD, when necessary, and consistent with the Panel's mission and DoD policies and procedures, may establish subcommittees to support the Panel. Establishment of subcommittees will be based upon a written determination, to include terms of reference, by the Secretary of Defense, the Deputy Secretary of Defense, or the Panel's sponsor.

   The Secretary of Defense or the Deputy Secretary of Defense shall approve the appointment of subcommittee members in the same manner as the parent committee appointments are made. These individuals may come from the parent committee or new nominees, as recommended by the Panel's sponsor and based upon the matters under consideration, but they must be approved by the Secretary or Deputy Secretary before participating in the subcommittee's work.

   As required by the Panel's charter, these subcommittees operate under the provisions of FACA, the Government in the Sunshine Act of 1976 (5 U.S.C. § 552b), governing Federal statutes and regulations, and governing DoD policies/procedures.

7. **Other:** The DoD adheres to the rules and regulations issued by the Office of Government Ethics and the Administration's prohibition against registered federal lobbyists.

8. **Prepared:**