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INSIGHT

FY2026 NDAA: TRICARE Reimbursement to Children's Hospitals

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Background

The Department of Defense (DOD), which is "using a secondary Department of War designation," under Executive Order (E.O.) 14347 dated September 5, 2025, administers a statutory health entitlement (under Title 10, Chapter 55, of the *U.S. Code*) through the Military Health System (MHS). The MHS offers health care benefits and services through its TRICARE program. By the end of FY2023, TRICARE beneficiaries totaled approximately 9.4 million people, including servicemembers, military retirees, and family members. Children aged 0-17 composed 20% of these beneficiaries (see **Figure 1**).

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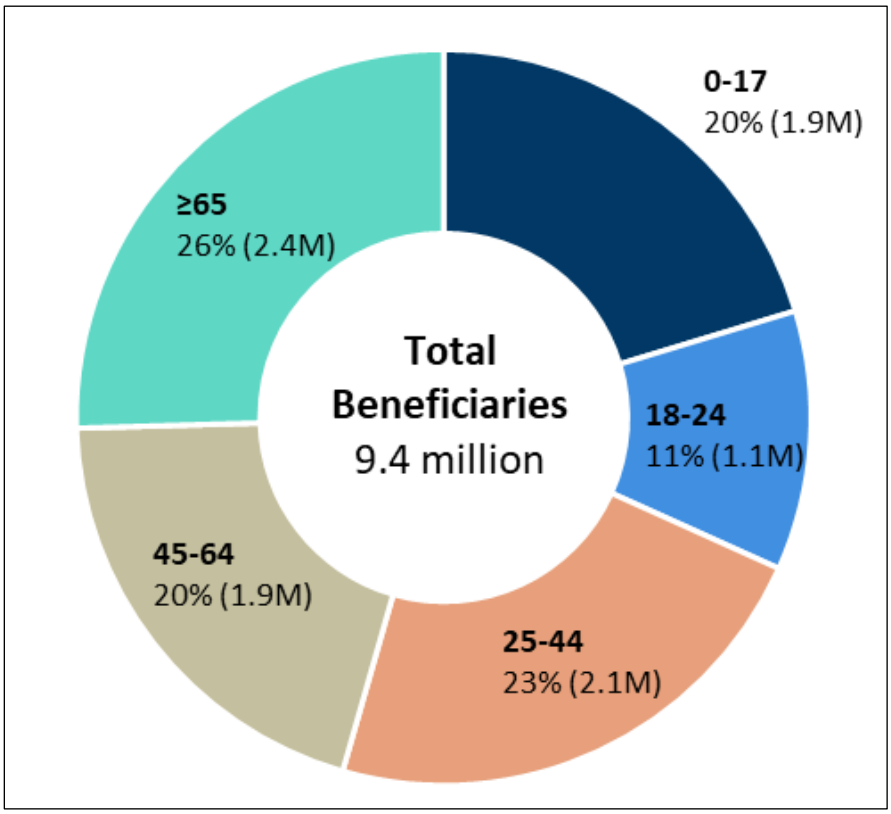
Figure 1. TRICARE Beneficiaries by Age Group, FY2023

(Age in Years)



Source: DOD, *Evaluation of the TRICARE Program: Fiscal Year 2024 Report*, 2023, p. 14.

Notes: Numbers may not add up to total due to rounding.

Statute (10 U.S.C. §1079(h)-(i)) generally requires the Secretary of Defense, who is using "Secretary of War" as a "secondary title" under E.O. 14347, to reimburse TRICARE-authorized health care providers and facilities "an amount determined to be appropriate, to the extent practicable, in accordance with the same reimbursement rules as apply to payments for similar services under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.)." This title of the Social Security Act refers to the Medicare program.

In 2009, DOD implemented a rule that adopted for TRICARE, a payment system that is similar to the Medicare outpatient prospective payment system (OPPS) methodology. At that time, DOD did not implement Medicare's reimbursement methodology for outpatient services delivered in cancer and children's hospitals (CCH) and ambulatory surgery centers; DOD chose to reimburse these facilities on a "fee-for-services basis." In 2019, DOD proposed a rule to adopt Medicare's reimbursement methodology (e.g., OPPS) for outpatient services delivered in these facilities. On October 1, 2023, DOD implemented these changes in a final rule.

Some Members of Congress have expressed concern to DOD on how the change in reimbursement might affect access to pediatric care for TRICARE beneficiaries. During deliberations on a National Defense Authorization Act (NDAA) for FY2026, Congress continued to express interest in how TRICARE reimburses certain health care providers, including children's hospitals. **Table 1** lists the proposed TRICARE reimbursement-related provisions included in the House-passed (H.R. 3838), Senate-passed (S. 2296), and enacted version (P.L. 119-60) of the FY2026 NDAA.

Table 1. FY2026 NDAA Legislative Proposals

House-passed H.R. 3838	Senate-passed S. 2296	P.L. 119-60
Section 723 would have amended 10 U.S.C. §1079(i) to require the Secretary of Defense to provide an annual payment adjustment to a TRICARE-authorized children's hospital when determined to have met certain statutory criteria.	No similar provision.	Not adopted.

Source: CRS analysis of legislation on Congress.gov.

Changes in TRICARE Reimbursement to Children's Hospitals

When DOD adopted OPPS in 2009, it implemented a transitional payment adjustment (referred to as a "hold-harmless protection") to "ease the provider's transition" from the legacy payment system to OPPS. The adjustment was to cover the difference of what a facility would be paid under OPPS and the cost of care (e.g., billed charge). DOD subsequently excluded CCH facilities from OPPS implementation because the department "cannot justify the administrative burden/expense of maintaining the hold harmless provisions for cancer and children's hospitals."

The 2023 final rule generally adopted Medicare reimbursement methodologies for CCHs and ambulatory surgery centers. DOD also included two features for CCHs: (1) a hold-harmless feature to reimburse CCH facilities "at a minimum, one hundred percent of their costs or the OPPS payment, whichever is higher" and (2) eligibility for a General Temporary Military Contingency Payment Adjustment or GTMCPA. A GTMCPA, when authorized by the DHA Director, provides an annual payment adjustment (up to 115% of the hospital's costs under OPPS) to ensure network adequacy during military contingency operations and so that CCH facilities "are assured that they will receive reimbursements for their costs." These hospitals may be eligible for a GTMCPA if the following criteria are met:

- 10 percent or more of the hospital's revenue is from TRICARE for care of active duty servicemembers or active duty dependents;
- 10,000 or more TRICARE visits that would fall under the OPPS payment system for active duty servicemembers or active duty dependents; and
- "deemed as essential for TRICARE operations."

DOD assessed that under the new rule, certain CCH facilities would see reduced payments for providing outpatient care to TRICARE beneficiaries, while others would see increased payments. For example, **Table 2** lists the range of DOD's estimated change in TRICARE reimbursement after adopting OPPS for 34 selected large children's hospitals. The department estimated an annual cost savings to the government of "approximately $45 million, offset by an estimate $1.5 million in administrative costs to implement the changes." Of those savings, $35 million would be attributed to the adoption of OPPS for CCH facilities.

Some stakeholders expressed concern with the change in reimbursement methodology and have requested that DOD delay implementation of the rule in order to "accurately determine the specific economic impacts of these changes." Other stakeholders pursued an unsuccessful legal challenge to halt these changes for children's hospitals.

Table 2. DOD's Estimated Impact of TRICARE Hospital Outpatient Department Reimbursement on 34 Large Children's Hospitals

Change in TRICARE Allowed Amounts as a % of Total Hospital Revenues

Estimated Range of Change in TRICARE Reimbursement	Number of Hospitals
↑ 0.1% or more	1
↑ 0.03% to 0.09%	4
↓ 0.02% to ↑ 0.02%	12
↓ 0.03%-0.09%	11
↓ 0.1%- or more	6
TOTAL	34

Source: CRS graphic based on Kennell and Associates, Inc.'s analysis, which DOD relied upon in issuing the 2023 final rule and reproduced in part in a declaration submitted by DOD in Children's Hospital Colorado v. U.S. Department of Defense, Case No. 1:23-cv-02561-NYW, at p. 8 (D. Colo. Nov. 16, 2023) (ECF No. 23-2) (on file with CourtListener).

Amidst these concerns, DOD asserted that the rule would be implemented with no transition period for CCH facilities because "providers will be held harmless under this reimbursement system." According to DOD, "because many CCH providers will receive payment increases, a transition period would not be beneficial for them." In a September 2025 report to Congress, DOD concluded that of the 81 children's hospitals that provided outpatient care to TRICARE beneficiaries in FY2023, "there was little change in access as measured by the change in the number of TRICARE-covered children" using these facilities "in the first 5 months after the implementation of the Rule."

Legislation

Section 723 of H.R. 3838 would have required the Secretary of Defense to issue an annual payment adjustment (i.e., 30% of the total annual OPPS amount) to children's hospitals that meet certain criteria for providing outpatient care to TRICARE beneficiaries. The Congressional Budget Office estimated that the provision would have cost "about $50 million per year beginning in 2027."

The enacted bill did not adopt the House provision. In S.Rept. 119-39, the Senate Armed Services Committee directed the Secretary of Defense to provide a report to the House and Senate armed services committees, no later than March 1, 2026, that would "clarify the scope of the children's hospital reimbursement policy and ensure transparency in its implementation." The committee stated that DOD's report is to "inform future oversight and potential legislative action related to children's hospital reimbursement policy and personnel support."

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