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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 41

Enlisted Administrative Separations

AGENCY: Department of Defense.

ACTION: Final rule.

SUMMARY: This document removes information in Title 32 of the Code of Federal Regulations concerning enlisted administrative separations. This part has served the purpose for which it was intended in the CFR and is no longer necessary.

EFFECTIVE DATE: October 21, 1998.

FOR FURTHER INFORMATION CONTACT:

L. Bynum or P. Toppings, 703-697-4111.

SUPPLEMENTARY INFORMATION: DoD Directive 1332.14 (32 CFR part 41) is available via internet at the following address: http://www.defenselink.mil/dodgc/defense_ethics/. Paper copies of the current Directive may be obtained, at cost, from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161.

List of Subjects in 32 CFR Part 41

Armed forces reserves, Military personnel.

PART 41—[REMOVED]

Accordingly, by the authority of 10 U.S.C. 301, 32 CFR part 41 is removed.

Dated: October 13, 1998.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer,

[FR Doc. 98-28137 Filed 10-20-98; 8:45 am]

BILLING CODE 5000-04-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 199

RIN 0720-AA46

Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); TRICARE Prime Balance Billing

AGENCY: Office of the Secretary, DoD.

ACTION: Final rule.

SUMMARY: This final rule establishes financial protections for TRICARE Prime enrollees in limited circumstances when they receive covered services from a non-network provider.

DATES: This rule is effective March 16, 1998.

ADDRESSES: TRICARE Management Activity, Program Development Branch, Aurora, CO 80045-6900.

FOR FURTHER INFORMATION CONTACT: Kathleen Larkin, Office of the Assistant Secretary of Defense (Health Affairs)/TRICARE Management Activity, telephone (703) 681-1745.

Questions regarding payment of specific claims under the CHAMPUS allowable charge method should be addressed to the appropriate TRICARE/CHAMPUS contractor.

SUPPLEMENTARY INFORMATION:

I. Overview of the Rule

This final rule implements section 731 of the FY 1996 National Defense Authorization Act and section 711 of the FY 1997 National Defense Authorization Act which modified 10 U.S.C. 1079(h) to provide protections for TRICARE Prime enrollees from balance billing situations in limited circumstances. Balance billing can otherwise occur when a provider bills a TRICARE Prime enrollee an actual charge in excess of the allowable amount. Each regional TRICARE managed care support contractor is required to establish a network of civilian providers in areas where TRICARE Prime (the enrollment option) is offered. As is standard for Health Maintenance Organizations, enrollees in TRICARE Prime receive care from network providers. But on occasion, such as when a network provider is not available and they are referred to a non-network provider, or in emergencies,

they may receive covered services from non-network providers. This rule provides protection in these situations; TRICARE Prime enrollees will be responsible for their copayments, but not for balance billing by non-participating providers.

Public Comments. The interim final rule was published in the **Federal Register** on February 13, 1998. We received one comment letter. We thank the commenter who approved of the Department's steps taken to further protect TRICARE Prime beneficiaries from the uncertainties of balance billing by non-network providers. The commenter also suggested that we more clearly define balance billing protections for "out-of-network referrals" and more specifically state our definition of "providers" with respect to references to non-participating providers.

Response. The rule is designed to limit TRICARE Prime beneficiary liability when properly referred by the primary care manager or Health Care Finder for authorized care outside of the TRICARE network in limited instances where there is a lack of network providers, or there is a mistaken referral to an out-of-network provider. Emergency care requires no prior authorization; however, balance billing protections also apply to TRICARE Prime beneficiaries who receive care in an emergency setting from non-network providers. With respect to the request to further define the term "providers," the definition is contained in 199.2 of this part and is generally considered to be a hospital, or other institutional provider, a physician, or other individual professional provider, or other provider of services or supplies.

Provisions of Final Rule. The final rule is consistent with the interim final rule.

II. Rulemaking Procedures

Executive Order 12866 requires certain regulatory assessments for any significant regulatory action, defined as one which would result in an annual effect on the economy of \$100 million or more, or have other substantial impacts.

The Regulatory Flexibility Act (RFA) requires that each Federal agency prepare, and make available for public comment, a regulatory flexibility analysis when the agency issues a regulation which would have a

significant impact on a substantial number of small entities.

This is not a significant regulatory action under the provisions of Executive Order 12866, and it would not have a significant impact on a substantial number of small entities.

The final rule will not impose additional information collection requirements on the public under the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

PART 199—[AMENDED]

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

Authority: 5 U.S.C. 301; 10 U.S.C. chapter 55.

2. Section 199.14 is amended by adding paragraph (h)(1)(i)(D) to read as follows:

§ 199.14 Provider reimbursement methods.

* * * * *

(h) *Reimbursement of Individual Health Care Professionals and Other Non-Institutional Health Care Providers.*

* * *

(1) *Allowable charge method.* * * *

(i) *Introduction.* * * *

(D) *Special rule for TRICARE Prime Enrollees.* In the case of a TRICARE Prime enrollee (see section 199.17) who receives authorized care from a non-participating provider, the CHAMPUS determined reasonable charge will be the CMAC level as established in paragraph (h)(1)(i)(B) of this section plus any balance billing amount up to the balance billing limit as referred to in paragraph (h)(1)(i)(C) of this section. The authorization for such care shall be pursuant to the procedures established by the Director, OCHAMPUS (also referred to as the TRICARE Support Office).

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Dated: October 15, 1998.

L.M. Bynum,

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

[FR Doc. 98-28140 Filed 10-20-98; 8:45 am]

BILLING CODE 5000-04-M

DEPARTMENT OF TRANSPORTATION

33 CFR Part 165

[COTP San Juan 98-065]

RIN 2115-AA97

Safety Zone Regulations: Port of Guanica, Guanica, Puerto Rico

AGENCY: U.S. Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing an emergency safety zone for the port of Guanica, Puerto Rico. This safety zone is necessary to protect vessels and the port from navigation hazards associated with downed electrical power cables that stretch into Guanica Bay. Three high tension power cables detached from the western tower and remain attached to the eastern tower. The cables enter the water in vicinity of the Ochoa fertilizer facility and are submerged at an unknown depth possibly within the channel. All vessels are prohibited from anchoring in or transiting within the prescribed safety zone unless specifically authorized by the Captain of the Port San Juan, PR.

EFFECTIVE DATES: This regulation becomes effective at 3 p.m. on October 7, 1998 for the port of Guanica, Puerto Rico, and will remain in effect until 6 p.m. on October 21, 1998.

FOR FURTHER INFORMATION CONTACT: Commanding Officer, Marine Safety Office San Juan, P.O. Box 9023666, Old San Juan, Puerto Rico, 00902-3666, Attention: Lieutenant Commander Dreyfus, or phone (787) 729-6800 x308.

SUPPLEMENTARY INFORMATION:

Background and Purpose

This regulation is necessary to protect vessels from navigation hazards associated with downed electrical power cables that stretch into Guanica Bay. All vessels are prohibited from anchoring in or transiting restricted waters and channels unless specifically authorized by the Captain of the Port San Juan, PR. This regulation does not apply to authorized law enforcement or search and rescue vessels operating within the safety zone. The Captain of the Port San Juan, PR will issue a Marine Safety Information Broadcast Notice to Mariners (BNTM) to notify the marine community of the safety zone and the imposed restrictions. A separate BNTM will be issued to notify when the safety zone is no longer in effect. This regulation begins at 3 p.m. on October 7, 1998 for the port of Guanica.

In accordance with 5 U.S.C. 553, a notice of proposed rulemaking (NPRM) was not published for this regulation and good cause exists for making it effective in less than 30 days after Federal Register publication. Publishing a NPRM and delaying its effective date would be contrary to the public interest and safety since immediate action is needed to protect vessels from an electrical hazard and/or from obstruction.

Regulatory Evaluation: This proposal is not a significant regulatory action

under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures for the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this rulemaking to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

Small Entities: Under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), the Coast Guard considers whether this proposed rule will have a significant economic effect upon a substantial number of small entities. "Small entities" include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule will not have a substantial economic impact on a substantial number of small entities as the regulations will only be in effect for a short period.

Collection of Information: This rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 et seq.).

Federalism: This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612 and has been determined that the rulemaking does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment.

Environmental Assessment: The Coast Guard has considered the environmental impact of this action and has determined, under figure 2-1, paragraph 34(g) of Commandant Instruction M16475.1C, that this action is categorically excluded from further environmental documentation. This temporary safety zone is established to deal with an emergency situation for which a checklist and Categorical Exclusive Determination is not required.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reports and recordkeeping requirements, Security measures, Waterways.