

consideration of standards for small electric motors.

The public meeting will be conducted in an informal, conference style. A court reporter will be present to record the minutes of the meeting. There shall be no discussion of proprietary information, costs or prices, market shares, or other commercial matters regulated by United States antitrust laws.

After the public meeting and the expiration of the period for submitting written statements, DOE will consider all comments and additional information that is obtained from interested parties or through further analyses, and it will prepare a NOPR. The NOPR will include proposed energy conservation standards for the products covered by the rulemaking, and members of the public will be given an opportunity to submit written and oral comments on the proposed standards.

Issued in Washington, DC, on December 19, 2008.

**John F. Mizroch,**

*Acting Assistant Secretary, Energy Efficiency and Renewable Energy.*

[FR Doc. E8-30985 Filed 12-29-08; 8:45 am]

BILLING CODE 6450-01-P

## DEPARTMENT OF DEFENSE

### Office of the Secretary

#### 32 CFR Part 199

RIN 0720-AB28; DoD-2008-HA-0073

#### TRICARE; Hospital-Based Psychiatric Partial Hospitalization Programs

**AGENCY:** Office of the Secretary, Department of Defense.

**ACTION:** Proposed rule.

**SUMMARY:** This proposed rule will provide that TRICARE approval of a hospital is sufficient for its psychiatric partial hospitalization program (PHP) to be an authorized TRICARE provider. Upon implementation of this provision, separate TRICARE certification of hospital-based psychiatric PHPs would no longer be required. This rule will establish uniform requirements for recognizing a hospital-based PHP as an authorized TRICARE provider.

**DATES:** Written comments received at the address indicated below by March 2, 2009 will be accepted.

**ADDRESSES:** You may submit comments, identified by docket number and/or Regulatory Information Number (RIN) number and title, by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *Mail:* Federal Docket Management System Office, 1160 Defense Pentagon, Washington, DC 20301-1160.

*Instructions:* All submissions received must include the agency name and docket number or RIN for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet, at <http://www.regulations.gov>, as they are received without change, including any personal identifiers or contact information.

**FOR FURTHER INFORMATION CONTACT:** Mr. Tariq Shahid, Office of the Assistant Secretary of Defense (Health Affairs), TRICARE Management Activity, at (303) 676-3801.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

TRICARE certification standards for psychiatric PHPs are defined in 32 CFR 199.6(b)(4)(xii) and further elaborated upon in the TRICARE Policy Manual. Currently, TRICARE authorized providers of psychiatric PHP services must have the Joint Commission accreditation and must comply with additional, detailed, unique TRICARE certification standards. Compliance with at least some of the unique TRICARE certification standards could require significant recurring staffing costs that psychiatric PHPs would not otherwise incur. Few facilities are willing or able to undergo this added TRICARE certification process, and it could adversely impact beneficiaries' access to psychiatric PHP care. Further, substance use disorder rehabilitation facilities are required to comply with unique TRICARE certification standards only if they are free-standing facilities (i.e., not part of a hospital). TRICARE does not require separate certification of hospital-based substance abuse PHPs. TRICARE approval of a hospital is sufficient for its substance abuse PHP to be an authorized TRICARE provider.

In late 2006, TRICARE established a working group to study the issues surrounding its behavioral health benefit. Recently, the working group completed its recommendations and developed several initiatives to improve TRICARE beneficiaries' access to behavioral health benefits. One of the recommendations was that TRICARE no longer impose its unique certification standards upon hospital-based psychiatric PHPs. Rather, TRICARE approval of a hospital be sufficient to

establish the hospital as an authorized provider of its PHP services to TRICARE beneficiaries.

Through this proposed rule, TRICARE will adopt the above recommendation. It will establish uniform requirements for recognizing a hospital-based PHP as an authorized TRICARE provider. It will provide a better balance between quality of PHP care and access to it than now exists. It will significantly increase the number of TRICARE authorized psychiatric PHPs, thereby potentially improving TRICARE beneficiaries' access to PHP care.

In accordance with the recommendations of the working group, the above change will be audited for a period of time to ensure no untoward effects upon the elimination of any unique TRICARE certification standards.

##### II. Regulatory Procedures

Section 801 of Title 5, United States Code, and EO 12866 requires certain regulatory assessments and procedures for any major rule or significant regulatory action, defined as one that would result in an annual effect of \$100 million or more on the national economy, or which would have other substantial impacts.

This is not a major rule under 5 U.S.C. 801 and it is not economically significant. It has been reviewed by the Office of Management and Budget as required under the provisions of Executive Order 12866.

It has been certified that this rule does not contain a Federal mandate that may result in the expenditure by State, local and tribal governments, in aggregate, or by the private sector, of \$100 million or more in any one year.

The Regulatory Flexibility Act 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.

It has been certified that this rule will not significantly affect a substantial number of small entities.

This rule will not impose additional information collection requirements on the public under the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 55).

We have examined the impact of the rule under Executive Order (EO) 13132 and it does not have policies that have federalism implications that would have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and

responsibilities among the various levels of Government; therefore, consultation with State and local officials is not required.

#### List of Subjects in 32 CFR Part 199

Claims, Dental health, Health care, Health insurance, Individuals with disabilities, Military personnel.

Accordingly, 32 CFR part 199 is proposed to be amended as follows:

#### PART 199—CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS)

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 199.6 is amended by revising paragraphs (b)(4)(xii)(A)(2)(i) and (b)(4)(xii)(E)(7) to read as follows:

#### § 199.6 TRICARE—authorized providers.

\* \* \* \* \*

- (b) \* \* \*  
(4) \* \* \*  
(xii) \* \* \*  
(A) \* \* \*

(2) *Eligibility.* (i) Every free-standing psychiatric partial hospitalization program must be certified pursuant to TRICARE certification standards. Such standards shall incorporate the basic standards set forth in paragraphs (b)(4)(xii)(A) through (D) of this section, and shall include such additional elaborative criteria and standards as the Director, TRICARE Management Activity, determines are necessary to implement the basic standards. Each psychiatric partial hospitalization program must be either a distinct part of an otherwise authorized institutional provider or a free-standing program. Approval of a hospital by TRICARE is sufficient for its partial hospitalization program to be an authorized TRICARE provider. Such hospital-based partial hospitalization programs are not required to be separately certified pursuant to TRICARE certification standards.

\* \* \* \* \*

- (E) \* \* \*

(7) Free-standing partial hospitalization programs shall certify that:

\* \* \* \* \*

Dated: December 22, 2008.

**Patricia L. Toppings,**  
OSD Federal Register Liaison Officer,  
Department of Defense.

[FR Doc. E8-31054 Filed 12-29-08; 8:45 am]

BILLING CODE 5001-06-P

## LIBRARY OF CONGRESS

### Copyright Royalty Board

#### 37 CFR Part 370

[Docket No. RM 2008-7]

#### Notice and Recordkeeping for Use of Sound Recordings Under Statutory License

**AGENCY:** Copyright Royalty Board, Library of Congress.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Copyright Royalty Judges, on behalf of the Copyright Royalty Board, are proposing to revise its interim regulations for filing notice of use and the delivery of records of use of sound recordings under two statutory licenses of the Copyright Act.

**DATES:** Comments are due no later than January 29, 2009.

**ADDRESSES:** Comments may be sent electronically to [crb@loc.gov](mailto:crb@loc.gov). In the alternative, send an original, five copies, and an electronic copy on a CD either by mail or hand delivery. Please do not use multiple means of transmission. Comments may not be delivered by an overnight delivery service other than the U.S. Postal Service Express Mail. If by mail (including overnight delivery), comments must be addressed to: Copyright Royalty Board, P.O. Box 70977, Washington, DC 20024-0977. If hand delivered by a private party, comments must be brought to the Copyright Office Public Information Office, Library of Congress, James Madison Memorial Building, Room LM-401, 101 Independence Avenue, SE., Washington, DC 20559-6000. If delivered by a commercial courier, comments must be delivered between 8:30 a.m. and 4 p.m. to the Congressional Courier Acceptance Site located at 2nd and D Street, NE., Washington, DC, and the envelope must be addressed to: Copyright Royalty Board, Library of Congress, James Madison Memorial Building, LM-403, 101 Independence Avenue, SE., Washington, DC 20559-6000.

**FOR FURTHER INFORMATION CONTACT:** Richard Strasser, Senior Attorney, or Gina Giuffreda, Attorney Advisor, by telephone at (202) 707-7658 or e-mail at [crb@loc.gov](mailto:crb@loc.gov).

**SUPPLEMENTARY INFORMATION:** On October 6, 2006, the Copyright Royalty Judges (“Judges”), on behalf of the Copyright Royalty Board (“Board”), issued interim regulations published in the **Federal Register** for the delivery and format of reports of use of sound recordings for the statutory licenses set

forth in sections 112 and 114 of the Copyright Act, title 17 of the United States Code. 71 FR 59010. As part of the Judges’ continuing oversight of regulations governing notice of use and the delivery of records of use of sound recordings under these two statutory licenses, we herewith propose such final regulations.

#### I. Overview

Digital audio services transmit performances of copyrighted sound recordings of music to the users of those services. In order to transmit these performances, however, a digital audio service must license the copyrights to each musical work, as well as the sound recording of the musical work.<sup>1</sup> With respect to the copyright in the sound recording, the digital audio service may seek to obtain a licensing agreement directly with the copyright owner or, if it is an eligible service,<sup>2</sup> may choose to license use of the sound recording through statutory licenses set forth in the Copyright Act. There are two such licenses that enable an eligible digital audio service to perform a copyrighted sound recording for its listeners: section 114 and section 112 of the Copyright Act. Section 114 permits an eligible digital audio service to perform copyrighted sound recordings to its listeners, provided that the terms and conditions set forth in section 114, including the payment of a royalty fee, are met. Section 112 permits an eligible digital audio service to make the digital copies of a sound recording that are necessary to transmit a sound recording to listeners, provided again that the terms and conditions set forth in section 112, including the payment of a royalty fee, are met.

The royalty fees collected under the two statutory licenses are paid to a central source known as a Collective. See 37 CFR 370. Before the Collective,<sup>3</sup> or other agents designated to receive royalties from the Collective, can make a royalty payment to an individual

<sup>1</sup> Recorded music typically involves two separate copyrights. There is a copyright for the song itself—the lyrics and the music—and there is a separate copyright for the sound recording of the music. The copyright to the musical work typically belongs to the songwriter and/or his or her music publisher, and the copyright to the sound recording is typically owned by the record company that recorded it.

<sup>2</sup> These services include preexisting subscription services, preexisting satellite digital audio radio services, business establishment services, nonsubscription services and new subscription services.

<sup>3</sup> SoundExchange, Inc., originally created by the Recording Industry Association of America, Inc. on behalf of its member companies, is currently the Collective for receiving both section 112 and 114 royalties.