

- b. Redesignating paragraph (g)(2)(ii)(D) as (g)(2)(ii); and
- c. Revising paragraphs (c)(6), (c)(7)(iii), (f)(3)(i), (g)(2)(i), newly redesignated paragraph (g)(2)(ii), (g)(4)(iii), (h)(2), (h)(3)(v)(A), and (j) to read as follows:

§ 199.5 TRICARE Extended Care Health Option (ECHO).

\* \* \* \* \*

(c) \* \* \*

(6) Transportation of an ECHO beneficiary receiving benefits under paragraph (c)(5), and a medical attendant when necessary to assure the beneficiary's safety, to or from a facility or institution to receive authorized ECHO services or items.

(7) \* \* \*

(iii) The Government's cost-share incurred for these services accrues to the fiscal year benefit limit of \$36,000.

\* \* \* \* \*

(f) \* \* \*

(3) \* \* \*

(i) ECHO. The total Government share of the cost of all ECHO benefits, except ECHO Home Health Care (EHHC) and EHHC respite care, provided in a given fiscal year to a beneficiary, may not exceed \$36,000 after application of the allowable payment methodology.

\* \* \* \* \*

(g) \* \* \*

(2) Equipment. (i) The TRICARE allowable amount for durable equipment shall be calculated in the same manner as durable medical equipment allowable through Section 199.4, and accrues to the fiscal year benefit limit specified in paragraph (f)(3) of this section.

(ii) Cost-share. A cost-share, as provided by paragraph (f)(2) of this section, is required for each month in which equipment is purchased under this section. However, in no month shall a sponsor be required to pay more than one cost-share regardless of the number of benefits the sponsor's dependents received under this section.

\* \* \* \* \*

(4) \* \* \*

(iii) The maximum monthly Government reimbursement for EHHC, including EHHC respite care, will be based on the actual number of hours of EHHC services rendered in the month, but in no case will it exceed one-twelfth of the annual maximum Government cost-share as determined in this section and adjusted according to the actual number of days in the month the services were provided.

(h) \* \* \*

(2) Registration. Active duty sponsors must register potential ECHO-eligible

beneficiaries through the Director, TRICARE Management Activity, or designee prior to receiving ECHO benefits. The Director, TRICARE Management Activity, or designee will determine ECHO eligibility and update the Defense Enrollment Eligibility Reporting System accordingly. Unless waived by the Director, TRICARE Management Activity or designee, sponsors must provide evidence of enrollment in the Exceptional Family Member Program provided by their branch of Service at the time they register their family member(s) for the ECHO.

(3) \* \* \*

(v) Public facility use. (A) An ECHO beneficiary residing within a state must demonstrate that a public facility is not available and adequate to meet the needs of their qualifying condition. Such requirements shall apply to beneficiaries who request authorization for training, rehabilitation, special education, assistive technology, and institutional care in private nonprofit, public, and state institutions and facilities, and if appropriate for beneficiaries receiving institutional care, transportation to and from such institutions and facilities. The maximum Government cost-share for services that require demonstration of public facility non-availability or inadequacy is limited to \$36,000 per fiscal year per beneficiary. State-administered plans for medical assistance under Title XIX of the Social Security Act (Medicaid) are not considered available and adequate facilities for the purpose of this section.

\* \* \* \* \*

(j) Effective date. All changes to this section are effective as of October 14, 2008, and claims for ECHO benefits provided on or after that date will be reprocessed retroactively to that date as necessary.

Dated: July 26, 2010.

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

[FR Doc. 2010-19312 Filed 8-6-10; 8:45 am]

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DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 199

[Docket ID: DOD-2009-HA-0097]

RIN 0720-AB35

TRICARE; Elimination of Voluntary Disenrollment Lock-Out

AGENCY: Office of the Secretary, Department of Defense.

ACTION: Final rule.

SUMMARY: This final rule eliminates the 1 year lock out for non-Active Duty members who disenroll from TRICARE Prime before their annual enrollment renewal date.

DATES: Effective Date: September 8, 2010.

FOR FURTHER INFORMATION CONTACT: Ms. Kathleen Larkin, TRICARE Policy and Operations, TRICARE Management Activity, 5111 Leesburg Pike, Suite 810, Falls Church, VA 22041, telephone (703) 681-0039.

SUPPLEMENTARY INFORMATION:

I. Introduction and Background

The TRICARE benefit was directed by Congress in section 1097 of the National Defense Authorization Act for Fiscal Year 1995. For further information on TRICARE, the reader may refer to the final rule regarding TRICARE published in the Federal Register on October 5, 1995.

Administrative Change

When TRICARE Prime was implemented, it was envisioned that TRICARE Prime enrollees would transfer their enrollment when they moved to a new location. The reality is that some enrollees, such as college students, move several times a year. When TRICARE Prime is available at their new location, they transfer enrollment. However, TRICARE Prime might not be available at the gaining location, so they voluntarily disenroll in advance of their annual enrollment date. This automatically triggers a one year lock-out. This final rule eliminates the lock-out for active duty family members and allows TRICARE Prime enrollment when they relocate in an area that offers TRICARE Prime.

II. Public Comments

The proposed rule was published in the Federal Register on October 29, 2009, for a 60-day comment period. We received one comment and we thank the person for commenting.

*Comment:* As someone who deploys, leaving my spouse to contend with TRICARE issues, it is important that this rule is adopted.

*Response:* We agree and are pleased to promulgate the rule.

### III. Regulatory Procedures

*Executive Order 12866, "Regulatory Planning and Review" and Public Law 96-354, "Regulatory Flexibility Act" (5 U.S.C. 601)*

Executive Order 12866 requires that a comprehensive regulatory impact analysis be performed on any economically 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. 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 final rule is not a significant regulatory action and will not have a significant impact on a substantial number of small entities for purposes of the RFA. Thus this final rule is not subject to any of these requirements.

*Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3511)*

This rule will not impose additional information collection requirements on the public.

*Executive Order 13132, "Federalism"*

We have examined the impacts of the rule under Executive Order 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.

*Section 202, Public Law 104-4, "Unfunded Mandates Reform Act"*

This rule does not contain unfunded mandates. It 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 1 year.

#### 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 amended as follows:

#### 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 199.17 (o)(4) is revised to read as follows:

#### § 199.17 TRICARE program.

\* \* \* \* \*

(o) \* \* \*

(4) *Voluntary disenrollment.* Any non-active duty beneficiary may disenroll at any time. Disenrollment will take effect in accordance with administrative procedures established by the Assistant Secretary of Defense (Health Affairs). Retired beneficiaries and their family members who disenroll prior to their annual enrollment renewal date will not be eligible to reenroll in Prime for a -1-year period from the effective date of the disenrollment. Active Duty family members may change their enrollment status twice in an enrollment year. Any additional disenrollment changes will result in an enrollment lock out for a 1-year period from the effective date of the disenrollment. Enrollment rules may be waived by the Assistant Secretary of Defense (Health Affairs) based on extraordinary circumstances.

\* \* \* \* \*

Dated: July 26, 2010.

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

[FR Doc. 2010-19309 Filed 8-6-10; 8:45 am]

**BILLING CODE 5001-06-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG-2009-0931]

RIN 1625-AA11

#### Regulated Navigation Area; Galveston Channel, TX

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is establishing a regulated navigation area (RNA) across the entire width of the Galveston Channel in the vicinity of Sector Field Office (SFO) Galveston, Texas. This RNA will require vessels to navigate at no wake speeds within this area. Vessel transits at greater than

minimum safe speed and causing wake in this area will be prohibited unless specifically authorized by the Captain of the Port Houston-Galveston or a designated representative. This RNA is needed to protect the Coast Guard SFO Galveston assets, break wall, and piers from further damage associated with excessive wake and to protect ongoing base construction.

**DATES:** This rule is effective September 8, 2010.

**ADDRESSES:** Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG-2009-0931 and are available online by going to <http://www.regulations.gov>, inserting USCG-2009-0931 in the "Keyword" box, and then clicking "Search." This material is also available for inspection or copying at the Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or e-mail Lieutenant junior grade Margaret Brown, Coast Guard Sector Houston-Galveston, telephone (713) 678-9001, or e-mail [margaret.a.brown@uscg.mil](mailto:margaret.a.brown@uscg.mil). If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

#### SUPPLEMENTARY INFORMATION:

##### Regulatory Information

On April 13, 2010, we published a notice of proposed rulemaking (NPRM) entitled "Regulated Navigation Area; Galveston Channel" in the **Federal Register** (75 FR 18766). We received no comments on the proposed rule and are issuing the final rule without change from the NPRM.

##### Basis and Purpose

The basis for this rulemaking is the Coast Guard's authority to establish regulated navigation areas, under 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 6.04-1, 6.04-6, 160.5; Pub. L. 107-295, 116 Stat. 2064; and Department of Homeland Security Delegation No. 0170.1. A regulated navigation area is a water area within a defined boundary for which regulations for vessels navigating within the area have been established, to control vessel traffic in a place determined to have hazardous conditions. 33 CFR 165.10;