

implement TOPS as of January 1, 2010. The PPACA also expanded the hold harmless provision to all SCHs.

TTOPs will be made to qualifying hospitals that have OPSS costs that are greater than their TRICARE allowed amounts using a method similar to Medicare. TRICARE will pay an amount equal to 85 percent of the difference between the estimated OPSS costs and the OPSS payment.

The process for determining the TTOPs will be outlined in a future revision to the TRICARE Reimbursement Manual. The TRICARE Reimbursement Manual is available at <http://manuals.tricare.osd.mil/>.

Dated: June 20, 2012.

**Patricia Toppings,**

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

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## DEPARTMENT OF DEFENSE

### Office of the Secretary

#### **TRICARE; Revised Guideline for Determining the Outpatient Prospective Payment System (OPSS) General Temporary Military Contingency Payment Adjustment (TMCPA) Amount**

**AGENCY:** Department of Defense (DoD).

**ACTION:** Notice of revised guideline for determining TRICARE's OPSS General TMCPA amount.

**SUMMARY:** This notice advises interested parties of a guideline concerning the methodology to calculate TRICARE's OPSS General TMCPA amount for qualifying hospitals.

**DATES:** The guideline for calculating TRICARE's OPSS General TMCPA amount is effective for OPSS year 4 (May 1, 2012–April 30, 2013) and subsequent years.

**ADDRESSES:** TRICARE Management Activity (TMA), Medical Benefits and Reimbursement Branch, 16401 East Centretech Parkway, Aurora, CO 80011-9066.

**FOR FURTHER INFORMATION CONTACT:** Ms. Martha M. Maxey, TMA, Medical Benefits and Reimbursement Branch, telephone (303) 676-3627.

**SUPPLEMENTARY INFORMATION:** TRICARE's OPSS Final Rule that was published in the **Federal Register** on December 10, 2008, states that TMCPAs are intended to provide additional payments above the Medicare payment level for hospitals that are "deemed essential for military readiness and

deployment in time of contingency operations."

The final rule stated that the procedures to be followed when submitting a TMCPA request would be outlined in the TRICARE Reimbursement Manual (TRM). For the first three OPSS years, (May 1, 2009–April 30, 2012), TMA implemented the criteria for General TMCPA payments and reviewed applications for General TMCPA payments. The TRM states that for qualifying hospitals, the General TMCPA adjustment cannot exceed 95 percent of the amount that would have been paid prior to implementation of OPSS.

We experienced two major problems with the approach:

1. The use of the current approach allows the payments to exceed the average payment-to-cost ratios (PCRs) paid by other payers. When DoD adopted the Medicare OPSS, the intent was to align our payment structure more closely with Medicare and assist those facilities that are "deemed essential for military readiness and deployment in time of contingency operations" by giving them a reasonable adjustment. As discussed below, paying hospitals up to 95 percent of the pre-OPSS amounts for hospital outpatient department services could be equivalent to reimbursing them at very high (PCRs), resulting in DoD paying higher rates than most purchasers of care at these facilities.

2. There is also a lack of fairness in the current method of determining General TMCPA payments for the various facilities because it is tied to the level of pre-OPSS allowed amounts. For the most part, pre-OPSS payments were made on the basis of the charges billed by the facility. DoD policy at that time was to pay these "billed charge amounts." Thus, using 95 percent of pre-OPSS allowed amounts could allow hospitals that had higher billed charges to receive higher levels of General TMCPA payments than those that had billed at lower "billed charge amounts" for the same services. This could be true even if a lower charging facility saw the same or greater number of DoD active duty and family members or if the facilities' percentage of revenue received from DoD were the same. This result is inequitable to the various facilities and inconsistent with the intent of the General TMCPA.

In an attempt to resolve these inequities, the Department looked at the rates paid by other private payers. A report published by the American Hospital Association (AHA) in December 2010 indicates that the aggregate PCRs for private payers are in the range of 1.15 to 1.35. A ratio of 1.0

means a hospital meets their costs and a ratio of greater than 1.0 means payments exceeds costs. Using an adjustment guideline to allow the Department to apply General TMCPA payments so that the total of payments to a qualifying hospital falls within these private pay norms was chosen as a method to more equitably meet DoD's objectives in making these payment adjustments. As a result, TRICARE is revising its guidelines for determining the level of payment for a General TMCPA from a maximum 95 percent of the pre-OPSS amount to a maximum PCR of 1.3 for OPSS year 4 (May 1, 2012–April 30, 2013) and subsequent years. The ratio 1.30 was selected because this is the average level of aggregate PCRs that AHA reports that hospitals have received from private payers during the 2003–2009 period. The use of a PCR as a guideline to determine the limit on the level of payment for General TMCPA payments is simple, transparent, and will provide fair and equitable payments to the qualifying hospitals and is supported by data indicating it is a reasonable approach.

The procedures that are to be followed when submitting a TMCPA request will be outlined in the TRM.

Dated: June 20, 2012.

**Patricia Toppings,**

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

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Project No. 2458-198]

#### **Great Lakes Hydro America, LLC; Notice of Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Protests**

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Application Type:* Amendment of License Article 408.

b. *Project No.:* 2458-198.

c. *Date Filed:* April 13, 2012.

d. *Applicant:* Great Lakes Hydro America, LLC.

e. *Name of Project:* Penobscot Mills.

f. *Location:* North Twin development, West Branch Penobscot River, Maine.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a-825r.

h. *Applicant Contact:* Kevin Bernier, Manager, Licensing and Compliance,