

in the plan of care, otherwise, reimbursement will not be authorized.

EFFC Respite Care. The DoD proposes to provide respite care within the EHHHC benefit specifically tailored for families with a beneficiary who has a medical condition(s) that requires frequent interventions by the primary caregiver. For the purpose of this respite care, the term "frequent" means "more than two interventions during the eight-hour per day period that the primary caregiver would normally be sleeping. The service performed during the interventions may have been taught to the primary caregiver by a medical professional, but the services performed by the primary caregiver are such that they can be performed safely and effectively by the average non-medical person without direct supervision of a licensed nurse or other health care provider. DoD proposes that when an eligible beneficiary's care plan reflects a need for frequent interventions by the primary caregiver, the beneficiary's primary caregiver is eligible for EHHHC respite services in lieu of the ECHO respite care benefit. Primary caregivers in this situation would be eligible for eight hours per weekday of respite care by a TRICARE-authorized home health agency. The services provided would be designed to provide health care services for the covered beneficiary so that the primary caregiver is relieved of his/her responsibility for providing such care for the duration of that period of respite care in order that the primary caregiver may rest. The TRICARE-authorized home health agency will not provide baby-sitting or child care services for other members of the family. The benefit would not be cumulative, that is, any respite care hours not used in a given day would not be carried over or banked for use on another occasion. The government's cost-share incurred for these services accrue to the proposed fiscal year maximum ECHO Home Health Care benefit.

EHHHC Government Cost Share. TRICARE-authorized home health agencies who provide services under the Basic Program are reimbursed under section 199.14(h) using the same methods and rates as used under the Medicare TRICARE-authorized home health agency prospective payment system under section 1895 of the Social Security Act (42 U.S.C. 1385fff) and 42 CFR part 484, subpart E, except for children under age ten and except as otherwise necessary to recognize distinct characteristics of TRICARE beneficiaries and as described in instructions issued by the Director, TRICARE Management Activity. However, the Medicare home health

agency prospective payment system is designed to reimburse providers who provide part-time or intermittent services; it is not designed to reimburse providers for services that exceed those limits. As a result, the Department proposes to pay billed charges or negotiated rates for EHHHC services up to an annual fiscal year cap in an amount no greater than what the highest locally wage-adjusted maximum Medicare Resource Utilization Grouping (RUG—III) category cost to the Government would be if services were provided in a TRICARE-authorized skilled nursing facility. (See 67 FR 40597–40606, June 13, 2001, concerning the TRICARE Sub-Acute Care Program; Uniform Skilled Nursing Facility Benefit; Home Health Care Benefit; Adopting Medicare Payment Methods for Skilled Nursing Facilities and Home Health Care Providers). Because the highest RUG—III category is used to determine the fiscal year cap, the Department will not attempt to determine what RUG—III category would apply to the beneficiary if such beneficiary were in fact admitted for care into a TRICARE-authorized skilled nursing facility.

The Maximum monthly Government cost-share to be paid to the home health agency for ECHO home health care will be the billed charge or negotiated rate, but in no case will it exceed one-twelfth of the fiscal year cap calculated as above.

When EHHHC beneficiaries move within the 50 United States or the District of Columbia, the annual fiscal year cap will be recalculated as above to reflect the correct wage-adjusted maximum RUG—III category cost for the beneficiary's new location and apply for the remaining portion of that fiscal year and subsequent fiscal years.

EHHHC Reimbursement. A TRICARE-authorized home health agency must bill for all authorized ECHO home health care services through established TRICARE claims mechanisms. No special billing arrangements will be authorized in coordination with coverage that may be provided by Medicaid (subject to any State Agency Billing Agreements), or other federal, state, community or private programs.

Reimbursement for all EHHHC services will be based on the professional level of the TRICARE-authorized home health agency individual(s) providing the authorized care. Specifically, TRICARE will reimburse up to 100% of the CHAMPUS Maximum Allowable Charge (CMAC) rate for a physician or registered nurse; up to 80% of the CMAC for a licensed practical or vocational nurse; and up to 60% of the CMAC for a home health aide.

Beneficiary Cost-share Liability for ECHO. Under 10 U.S.C. 1079(f), members are required to share in the cost of any benefits provided to their dependents under ECHO. ECHO benefits are not subject to a deductible amount. Regardless of the number of ECHO eligible family members, the sponsor's monthly cost-share for allowed ECHO benefits is based upon the rank of the uniformed service member. Under 10 U.S.C. 1079(f)(1)(A), members with a rank of E–1 are required to pay the first \$25 incurred per month, and members with a rank of O–10 are required to pay the first \$250 incurred per month. It is proposed that the cost-share for members with ranks in-between would be structured so that the vast majority would pay less than \$100 per month, with the most senior enlisted member paying less than \$50 per month.

Sponsor rank-based cost-sharing (refer to Table 1, 32 CFR 199.5) applies to benefits covered by the ECHO and these cost-shares do not apply toward the Basic Program's catastrophic cap under 10 U.S.C. 1079(b)(5). The waiver of cost-shares for active duty family members enrolled in TRICARE Prime does not apply to ECHO, as there is a separate statutory basis for the ECHO program and its cost-shares compared to the Basic Program or Prime.

Government Cost-share Liability for ECHO. The Government's monthly cost-share of all benefits provided to a beneficiary in a particular month under the PFPWD was statutorily limited to \$1,000 by 10 U.S.C. 1079(e)(2) for all benefits. The Government's monthly cost-share of any benefits provided under ECHO is now statutorily limited by section 701(b) of the NDAA–02 (10 U.S.C. 1079(f)(2)(A)) to \$2,500 for benefits related to training, rehabilitation, special education, assistive technology devices, and institutional care in private, non-profit, public, and state institutions and facilities, and if appropriate, transportation to and from such institutions and facilities. Because the NDAA–02 provided no statutory limitation concerning the amount of the Government's monthly cost-share for all other benefits under ECHO, the Department has discretion to determine the maximum monthly Government cost-share. Therefore, the Department proposes to increase the monthly Government cost-share from \$1,000 to \$2,500 for all benefits under ECHO, with the exception of the new ECHO home health care benefit as is detailed herein. The primary reason for this proposed increase is that the maximum government cost-share has not been