

adjusted since 1980. We will continue to review this issue to ensure that the government's cost-share reasonably meets the needs of beneficiaries.

**Other Requirements.** Other ECHO requirements are as follows:

**Registration:** Sec 701(b) of the NDAA-02 (10 U.S.C. 1079(d)(1)) requires registration to receive ECHO benefits. Sponsors of potentially qualifying beneficiaries will seek to register their family member(s) for ECHO benefits through the applicable Managed Care Support Contractor who will certify eligibility and update the Defense Eligibility Enrollment Reporting System (DEERS) to reflect ECHO eligibility. No ECHO benefits may be authorized unless the beneficiary is registered in DEERS as ECHO-eligible.

**EMFP enrollment:** Each of the Services has their own Exceptional Family Member Program (EFMP). The programs are a military personnel program. The purpose of the program is to have military personnel offices evaluate the ability of a military and civilian community to provide appropriate medical and/or educational services to service members' dependents who have special medical or educational needs before the Service re-assigns the member to a new location. Although each Service requires its members with special needs to enroll in the EFMP, some members do not comply with this requirement. The result is that some members arrive at assignment locations that are unable to accommodate the special medical and/or educational needs of their dependent. Dependents of members required to be enrolled in EFMP are similar if not identical to those who qualify for the ECHO program. The Services do not routinely provide EFMP enrollments to TRICARE. In accordance with 10 U.S.C. 1079(d)(1), a beneficiary must register with TRICARE in order to qualify for receipt of benefits through the ECHO. We propose that the registration process will be provided by the applicable Managed Care Support Contractor. We also propose that members will be required to provide evidence they are enrolled in their Services' Exceptional Family Member program when registering for ECHO benefits. This requirement will enhance the probability that personnel are assigned to locations where there are sufficient qualified individual or institutional providers to provide the ECHO benefit to their dependents.

**Use of Public Facilities:** For ECHO 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, the statute expressly requires use of public facilities to be the extent such facilities are available and adequate as determined under this regulation.

### III. Regulatory Procedures

Executive Order (EO) 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 rule is not an economically significant regulatory action and will not have a significant impact on a substantial number of small entities for purposes of the RFA. This rule, although not economically significant under Executive Order 12866, is a significant rule under Executive order 12866 and has been reviewed by the Office of Management and Budget.

#### *Paperwork Reduction Act*

This rule will not impose additional information collection requirements on the public under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3511). Existing DoD information systems to include the Defense Eligibility Enrollment Reporting System (DEERS) will be upgraded to reflect ECHO registration.

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

Case management, Claims, Custodial care, Health insurance, Individuals with disabilities, Military Personnel.

For the reasons set out in the preamble, 32 CFR part 199 is proposed to be 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 199.2 is proposed to be amended by removing the definition for the "Program for Persons with Disabilities (PPFWD)" and "Extraordinary condition", by revising the definitions of "Durable equipment", "Durable medical equipment", and

"Homebound", and adding definitions "Duplicate Equipment", "Extended Care Health Option (ECHO)", "Extraordinary Physical or Psychological Condition" and placing them in alphabetical order to read as follows:

#### **§ 199.2 Definitions.**

\* \* \* \* \*

(b) \* \* \*

**Duplicate Equipment.** An item of durable equipment or durable medical equipment, as defined in this section, that serves the *same* purpose that is served by an item of durable equipment or durable medical equipment previously cost-shared by TRICARE. For example, various models of stationary oxygen concentrators with no primary functional differences are considered duplicate equipment, whereas stationary and portable oxygen concentrators are not considered duplicates of each other because the latter is intended to provide the user with mobility not afforded by the former. Also, a manual wheelchair and an electric wheelchair, both of which otherwise meet the definition of durable equipment or durable medical equipment, would not be considered duplicates of each other if each is found to provide an appropriate level of mobility. For the purpose of TRICARE cost-sharing, durable equipment and durable medical equipment that is essential to provide a fail-safe-in-home life support system is not considered duplicate equipment.

#### **Durable equipment.**

(1) A device or apparatus which does not qualify as durable medical equipment and which is essential to the efficient arrest or reduction of functional loss resulting from a qualifying condition as provided in section 199.5; and

(2) is other than duplicate equipment as defined in this section.

#### **Durable medical equipment.**

\* \* \* \* \*

(9) Is other than duplicate equipment as defined in this section.

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#### **Extended Care Health Option (ECHO).**

The TRICARE special program of supplemental benefits for qualifying active duty family members as described in Section 199.5

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**Extraordinary Physical or Psychological Condition.** A complex physical or psychological clinical condition of such severity which results in the beneficiary being homebound as defined in this section.

\* \* \* \* \*

**Homebound.** A beneficiary's condition is such that there exists a