Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		i_1	i_2	i_3	n_2	n_2
*	*		*	*	*	*	*	
53	03–1–98	04–1–98	4.25	4.00	4.00	4.00	7	8

Issued in Washington, D.C., on this 4th day of February 1998.

David M. Strauss,

Executive Director,

Pension Benefit Guaranty Corporation.

[FR Doc. 98–3365 Filed 2–12–98; 8:45 am]

BILLING CODE 7708–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 199

RIN 0720–AA46

Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); TRICARE Prime Balance Billing

AGENCY: Office of the Secretary, DOD.

ACTION: Interim final rule.

SUMMARY: This interim final rule establishes financial protections for TRICARE Prime enrollees in limited circumstances when they receive covered services from a non-network provider. This rule is being published to provide protection for TRICARE Prime enrollees.

DATES: This rule is effective March 16, 1998. Public comments must be received by April 14, 1998.

ADDRESSES: TRICARE Support Office (TSO), Program Development Branch, Aurora, CO 80045–6900.

FOR FURTHER INFORMATION CONTACT: Kathleen Larkin, Office of the Assistant Secretary of Defense (Health Affairs), telephone (703) 695–3350.

Questions regarding payment of specific claims under the CHAMPUS allowable charge method should be addressed to the appropriate TRICARE/CHAMPUS contractor.

SUPPLEMENTARY INFORMATION:

I. Overview of the Rule

This interim final rule implements section 731 of the FY 1996 National Defense Authorization Act and section 711 of the FY 1997 National Defense Authorization Act which modified 10 U.S.C. 1079(h) to provide protections for TRICARE Prime enrollees from balance billing situations in limited circumstances. Each regional TRICARE managed care support contractor is required to establish a network of civilian providers in areas where TRICARE Prime (the enrollment option) is offered. As is standard for Health Maintenance Organizations, enrollees in TRICARE Prime receive care from network providers. But on occasion, such as when a network provider is not available, or in emergencies, they may receive covered services from non-network providers. This rule provides protection in these situations; TRICARE Prime enrollees will be responsible for their copayments, but not for balance billing by non-participating providers.

II. Rulemaking Procedures

Executive order 12866 requires certain regulatory assessments for any significant regulatory action, defined as one which would result in an annual effect on the economy of $100 million or more, or 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.

It has determined that this is not a significant regulatory action.

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

This rule is being issued as an interim final rule, with comment period, as an exception to our standard practice of soliciting pubic comments prior to issuance. The Assistant Secretary of Defense (Health Affairs) has determined that following the standard practice in this case would be impracticable, unnecessary, and contrary to the pubic interest. This determination is based on several factors. First, this change directly implements a statutory amendment enacted by Congress expressly for this purpose. (See House Conference Report 104–724, p. 762, and House Report 104–563, p. 318) Second, this rule implements the statutory policy without embellishment. The rule simply implements the unambiguous Congressional policy of adjusting TRICARE/CHAMPUS payment rates to protect Prime enrollees when receiving authorized care for nonparticipating providers. Third, implementation of the statutory amendment, enacted September 23, 1996, has already been substantially delayed because of a separate statutory provision (section 8008 of the Department of Defense Appropriations Act), which expired September 30, 1997, and a further delay is unwarranted. Fourth, TRICARE Prime is a major ''quality of life'' program of the Department of Defense. Its success is of great importance to maintaining adequate retention rates of military personnel and, thus, the conduct of the military affairs function of the United States. Fifth, the unexpected imposition of balance billing requirements on TRICARE prime enrollees receiving authorized care has been voiced as a major complaint, undermining beneficiary trust in commitments made to Prime enrollees and ultimately the success of the TRICARE initiative. Public comments are invited. All comments will be carefully considered. A discussion of the major issues received by public comments will be included with the issuance of the permanent final rule, anticipated approximately 60 days after the end of the comment period.

List of Subjects in 32 CFR Part 199

Claims, Health insurance, Individuals with disabilities, Military personnel, Reporting and recordkeeping requirements.

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 199.14 is amended by adding paragraph (h)(1)(i)(D) to read as follows:

§ 199.14 Provider reimbursement methods.

* * * * *

(h) Reimbursement of Individual Health Care Professionals and Other Non-Institutional Health-Care Providers. * * *

(1) Allowable charge method. * * *

(1) Introduction. * * *

(D) Special rule for TRICARE Prime Enrollees. In the case of a TRICARE Prime enrollee (see § 199.17) who receives authorized care from a non-participating provider, the CHAMPUS determined reasonable charge will be the CMAC level as established in paragraph (h)(1)(i)(B) of this section plus any balance billing amount up to the balance billing limit as referred to in paragraph (h)(1)(i)(C) of this section. The authorization for such care shall be pursuant to the procedures established by the Director, OCHAMPUS (also referred to as the TRICARE Support Office).

* * * * *

Dated: February 6, 1998.

L.M. Bynum,

Alternate Federal Register Liaison Officer, Department of Defense.

[FR Doc. 98–3502 Filed 2–12–98; 8:45 am]

BILLING CODE 5000–04–M

LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 255

[Docket No. 96–4 CARP DPRA]

Mechanical and Digital Phonorecord Delivery Rate Adjustment Proceeding

AGENCY: Copyright Office, Library of Congress.

ACTION: Final regulations.

SUMMARY: The Copyright Office of the Library of Congress is announcing final regulations that became effective on January 1, 1998, adjusting royalty rates to be paid under the mechanical compulsory license, section 115 of the 1976 Copyright Act, as amended, for use of physical, or non-digital, phonorecords. The Office addresses rates for physical phonorecord delivery today, and will address rates for digital phonorecord delivery in the future.

EFFECTIVE DATE: January 1, 1998.

FOR FURTHER INFORMATION CONTACT: David O. Carson, General Counsel, or Tanya Sandros, Attorney Advisor, Copyright Arbitration Royalty Panel (CARP), P.O. Box 70977, Southwest Station, Washington, D.C. 20024. Telephone: (202) 707–8380. Fax: (202) 707–8366.

SUPPLEMENTARY INFORMATION:

Background

The mechanical compulsory license, 17 U.S.C.115, provides a mechanism outside the realm of contract for persons who want to make and distribute phonorecords of nondramatic musical works that have been distributed in the United States by the copyright owner to obtain a compulsory license to perform that activity. A person is eligible for this compulsory license if: (1) He or she has not been able to serve a notice of intention to obtain the license on the copyright owner, and (2) a notice of intention has been filed with the Copyright Office. 17 U.S.C. 115(b)(1).

Until its demise in 1993, the Copyright Royalty Tribunal had authority to adjust the statutory rates for the making and distribution of physical phonorecords, and did so in 1987, setting the rates and terms for the mechanical compulsory license for at least the next ten years. *See* 52 FR 22637 (June 15, 1987). The Copyright Office currently administers the mechanical license, and responsibility for adjusting royalty rates rests with Copyright Arbitration Royalty Panels, known as CARPs. 17 U.S.C. 801(b)(1), 803. The Copyright Act provides that during the tenth calendar year following a ratesetting, any copyright owner or user whose royalty rates are specified by the statutory license may file a petition requesting an adjustment to the rates and terms. 17 U.S.C. 803(a)(1), (3).

On November 1, 1995, Congress passed the Digital Performance Right in Sound Recordings Act of 1995 (Digital Performance Act), Pub. L. 104–39, 109 Stat. 336 (1995), which amended sections 114 and 115 of the Copyright Act, and extended the mechanical license to digital phonorecord deliveries. The mechanical rate for physical, or non-digital, phonorecords can be the same as, or different from, the rate that applies to digital phonorecord deliveries.

The legislative history for the Digital Performance Act states that: ''Through 1997, the royalty rate payable for digital phonorecord delivery shall be the same as for physical phonorecords. After 1997, the rates for digital phonorecord delivery will be determined as provided by the amended provisions section 115(c)(3) [sic], and need not be the same as for the making and distribution of physical phonorecords.'' H.R. Rep. No. 274, 104th Cong., 1st Sess. 28 (1995). The House Report further recognizes as separate digital and physical phonorecord rates, stating: ''The terms and rates shall be established [for digital use] according to the same criteria that apply to the license for making and distributing physical phonorecords * * *'' *Id.* at 29.

The most recent royalty rate applicable under 17 U.S.C.115 was described in Copyright Office regulations at 37 CFR 255.3(h), as follows: ''For every phonorecord made and distributed on or after January 1, 1996, the royalty rate payable with respect to each work embodied in the phonorecord shall be either 6.95 cents, or 1.3 cents per minute of playing time or fraction thereof, whichever amount is larger.'' *Id.*

The year 1997 was a window year for commencing a proceeding to further adjust the mechanical phonorecord compulsory license royalty rates. The Office initiated proceedings to adjust all section 115 rates in 1997; however, modifications were made due to requests by the interested parties for extra time to negotiate terms for a new rate.

At this time the Office is announcing final regulations that adjust royalty rates for reproduction and distribution of physical phonorecords. Rate adjustment for use of digital phonorecords under section 115 will be announced in the future. The Office bifurcates this procedure in order to finalize the rate adjustment for physical phonorecords, and then to consider important legal and policy issues brought forward by interested parties that relate to application of section 115 rates for digital phonorecord delivery.

History of the Current Proceeding

On July 17, 1996, the Copyright Office published a notice which, among other things, established a schedule for convening a CARP which would have set new rates for digital phonorecord deliveries before the existing rate expired. *See* 61 FR 37312 (July 17, 1996). As noted *supra*, 1997 also was a window year for adjusting royalty rates for the making and distribution of physical phonorecords. The Office requested comment from interested parties on the possibility of consolidating the two proceedings, and conducting a single CARP to adjust both the physical phonorecord and the digital phonorecord delivery rates. *See* 61 FR 37215 (July 17, 1996).

According to the interested parties, consisting of the Recording Industry Association of America (RIAA), the National Music Publishers' Association, Inc. (NMPA), and the Harry Fox Agency, Inc. (referred to together as the Parties), the proposed schedule did not allot sufficient time for negotiating a comprehensive joint proposal. Therefore, they filed a motion with the Office on November 8, 1996, asking the Office to vacate the proposed schedule to allow them time to continue their negotiations. The Office granted the Parties' motion and rescheduled the proceeding. *See* 61 FR 65243 (December 11, 1996).