only intrastate calls, or are calling on behalf of an industry that is exempt from FTC jurisdiction.

Are these estimates, and others used in arriving at a figure for the number of firms that will be required to access to the national do-not-call registry, realistic and appropriate? What evidence can you provide to support the view that these estimates are reasonable or that they should be different?

3. How many area codes of data will the average firm accessing the national do-not-call registry purchase? How many firms will require access to 250 of more area codes of data? How many will need access to 5 or fewer area codes?

4. Is it appropriate to require each separate corporate division, subsidiary, and affiliate that engages in outbound telemarketing to pay a separate fee to access the national registry? Why or why not? If a separate fee is not appropriate, what is a better way to differentiate between large and small enterprises? Would that alternative method maintain the fairness of the fee collection system while not significantly decreasing the number of entities that will pay for access to the national registry?

List of Subjects in 16 CFR Part 310

Telemarketing, Trade practices.

XI. Proposed Rule

Accordingly, for the reasons set forth in the preamble, the Commission proposes to amend part 310 of title 16 of the Code of Federal Regulations as follows:

PART 310—TELEMARKETING SALES RULE

1. The authority citation for part 310 continues to read as follows:

Authority: 15 U.S.C. 6101–6108.

2. Add § 310.8 to read as follows:

§ 310.8 Fee for access to do-not-call registry.

(a) It is a violation of this Rule for any seller to initiate, or cause any telemarketer to initiate, an outbound telephone call to any person whose telephone number is within a given area code unless such seller first has paid the annual fee, required by § 310.8(c), for access to telephone numbers within that area code that are included in the national do-not-call registry maintained by the Commission under § 310.4(b)(1)(iii)(B).

(b) It is a violation of this Rule for any telemarketer, on behalf of any seller, to initiate an outbound telephone call to any person whose telephone number is within a given area code unless that seller first has paid the annual fee, required by § 310.8(c), for access to the telephone numbers within that area code that are included in the national do-not-call registry.

(c) The annual fee, which must be paid prior to obtaining access to the do-not-call registry, is $29 per area code of data accessed, up to a maximum of $7,250; provided, however, that if a seller obtains no more than five (5) area codes of data annually, there shall be no charge for this information.

(d) After a seller pays the fees set forth in § 310.8(a), the seller will be provided a unique account number which will allow that seller, or an entity designated by that seller, to access the registry data for the selected area codes at any time for twelve months following the first day of the month in which the seller paid the fee (''the annual period''). To obtain access to additional area codes of data during the first six months of the annual period, the seller must first pay $29 for each additional area code of data not initially selected. To obtain access to additional area codes of data during the second six months of the annual period, the seller must first pay $15 for each additional area code of data not initially selected. The payment of the additional fee will permit the seller or the seller's designee to access the additional area codes of data for the remainder of the annual period.

(e) Access to the do-not-call registry is limited to telemarketers, sellers, others engaged in or causing others to engage in telephone calls for commercial purposes, service providers acting on behalf of such persons, and any government agency that has the authority to enforce a federal or state do-not-call statute or regulation. Prior to accessing the do-not-call registry, a person must provide the identifying information required by the operator of the registry to collect the fee, and must certify, under penalty of law, that the person is accessing the registry solely to comply with the provisions of this Rule or to otherwise prevent telephone calls to telephone numbers on the registry. If the person is accessing the registry on behalf of other sellers, that person also must identify each of the other sellers on whose behalf it is accessing the registry, must provide each seller's unique account number for access to the national registry, and must certify, under penalty of law, that the other sellers will be using the information gathered from the registry solely to comply with the provisions of this Rule or otherwise to prevent telephone calls to telephone numbers on the registry.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 03–7932 Filed 4–2–03; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 199

RIN 0720–AA76

TRICARE Program; Inclusion of Anesthesiologist's Assistants as Authorized Providers; Coverage of Cardiac Rehabilitation in Freestanding Cardiac Rehabilitation Facilities

AGENCY: Office of the Secretary, Department of Defense.

ACTION: Proposed rule.

SUMMARY: This proposed rule establishes a new category of provider as an authorized TRICARE provider, and it increases the settings where cardiac rehabilitation can be covered as a TRICARE benefit. It recognizes anesthesiologist's assistants as authorized providers under certain circumstances. It also authorizes cardiac rehabilitation services, which are already a covered TRICARE benefit when provided by hospitals, to be provided in freestanding cardiac rehabilitation facilities.

DATES: Public comments must be received by June 2, 2003.

ADDRESSES: Forward comments to: TRICARE Management Activity (TMA), Medical Benefits and Reimbursements Systems, 16401 East Centretech Parkway, Aurora, CO 80011–9043.

FOR FURTHER INFORMATION CONTACT: Stephen E. Isaacson, Medical Benefits and Reimbursement Systems, TMA, (303) 676–3572.

SUPPLEMENTARY INFORMATION:

A. Inclusion of Anesthesiologist's Assistants as Authorized Providers

At present only two types of anesthesia providers may provide services to TRICARE beneficiaries—anesthesiologists and certified registered nurse anesthetists (CRNAs). In some areas of the country, anesthesiologist's assistants, after completing the specified training, being accredited, and being licensed by the state also provide anesthesia services. The Centers for Medicare and Medicaid Services (CMS) already recognizes anesthesiologist's assistants as authorized providers (42 CFR 410.69).

We propose to recognize anesthesiologist's assistants as authorized providers under the same conditions applied by CMS. That is:

(1) They must work only under the direct supervision of an anesthesiologist;

(2) They must comply with all applicable requirements of state law and be licensed, where applicable, by the state in which they practice; and

(3) They must have completed the appropriate educational requirements. This includes graduation from a Master's level medical school-based anesthesiologist's assistant program that is accredited by the Committee on Allied Health Education and Accreditation and includes approximately two years of appropriate specialized basic science and clinical education in anesthesia. This program must build on a premedical undergraduate science background.

Recognition of anesthesiologist's assistants will not increase the costs of anesthesia to the Program. This is, payment for anesthesia services provided by an anesthesiologist and an anesthesiologist's assistant under the anesthesiologist's direct supervision will never exceed what would have been paid if the services were provided only by the anesthesiologist.

Since anesthesiologist's assistants may not practice independently, they also may not bill independently for their services. All claims for their services must be submitted by their employer, whether it is a hospital, a physician, or some other similar entity. Such claims must indicate that the services were provided by an anesthesiologist's assistant.

B. Coverage of Cardiac Rehabilitation in Freestanding Cardiac Rehabilitation Centers

On October 19, 1990, the Office of the Secretary of Defense published a final rule in the **Federal Register** (55 FR 42366) establishing cardiac rehabilitation as a TRICARE benefit when used in the treatment of certain cardiac events. The following rationale was provided for limiting cariac rehabilitation services to TRICARE authorized hospitals:

As a national program, Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) strives for uniformity and equity in benefits to ensure beneficiary safety. Toward this end, CHAMPUS relies on the existing nationwide infrastructure for accreditation and professional regulatory oversight. With the large variety of freestanding cardiac rehabilitation clinics throughout the country, it is incumbent upon CHAMPUS to seek out national standards to provide a clear line of demarcation on CHAMPUS requirements. Currently, there is no organized national accreditation agency for accrediting freestanding cardiac rehabilitation clinics, nor does there appear to be standardized state licensure, or certification procedures in existence which address standards for freestanding cardiac rehabilitation clinics. Since OCHAMPUS does not have the resources to conduct its own accreditation activities, the requirement for national accreditation is at least a minimum assurance that a facility or specialized treatment facility meets some standards of quality.

However, since incorporation of this restriction (*i.e.,* cardiac rehabilitation services being restricted to hospital based facilities/programs) there has been an evolution of alternative freestanding delivery programs whose efficacy and safety have been recognized by the medical community and other third-party payers. Freestanding cardiac rehabilitation programs are examples of this evolutionary trend. With the establishment of standardized licensure and accreditation procedures, many of these freestanding programs have been recognized and approved for participation under TRICARE.

Currently TRICARE provides coverage/payment for inpatient or outpatient services and/or supplies provided in connection with a cardiac rehabilitation program when provided by a TRICARE authorized hospital. Outpatient cardiac rehabilitation treatment programs affiliated with TRICARE authorized hospitals are reimbursed an all-inclusive allowable charge per session that includes all related professional services provided during a rehabilitation session. Inpatient programs are paid based upon the reimbursement system in place for the hospital where the services are provided. Separate cost-sharing is allowed for initial evaluation and testing and related professional services.

Since hospital based cardiac rehabilitation is already an established benefit under TRICARE, its benefit and reimbursement structure can be applied to freestanding cardiac rehabilitation programs. Claims for freestanding outpatient cardiac rehabilitation treatment will be reimbursed in the same manner as outpatient cardiac rehabilitation treatment programs affiliated with TRICARE authorized hospitals. That is, they will be reimbursed based upon an all inclusive allowable charge per session that includes all related professional services provided during the rehabilitation session.

Regulatory Procedures

Executive Order (EO) 12866 requires that a comprehensive regulatory impact analysis be performed on any economically significant regulatory action, defined as one which 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 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 economically significant and will not significantly affect a substantial number of small entities.

''This rule has been designated as significant and has been reviewed by the Office Management and Budget as required under the provisions of E.O. 12866.''

Paperwork Reduction Act

This rule imposes no burden as defined by the Paperwork Reduction Act of 1995.

List of Subjects in 32 CFR Part 199

Claims, Handicapped, Health insurance, and Military personnel.

Accordingly, 32 CFR part 199 is proposes 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 199.4 is proposed to be amended by revising paragraph (e)(18)(iv) as follows:

§ 199.4 Basic program benefits.

(e) * * *

(18) * * *

(iv) *Providers.* A provider of cardiac rehabilitation services must be a TRICARE authorized hospital (*see* Section 199.6 paragraph (b)(4)(i)) or a freestanding cardiac rehabilitation facility that meets the requirements of Section 199.6 paragraph (f). All cardiac rehabilitation services must be ordered by a physician.

* * * * *

3. Section 199.6 is proposed to be amended by redesignating paragraph (c)(3)(iii)(I) as paragraph (c)(3)(iii)(J) and adding a new paragraph (c)(3)(iii)(I) as follows:

§ 199.6 Authorized Providers.

(c) * * *

(3) * * *

(iii) * * *

(I) *Anesthesiologist's Assistant.* An anesthesiologist's assistant may provide covered anesthesia services, if the anesthesiologist's assistant:

(1) Works under the direct supervision of an anesthesiologist, and the anesthesiologist bills for the services;

(2) Is in compliance with all applicable requirements of state law, including any licensure requirements the state imposes on nonphysician anesthetists; and

(3) Is a graduate of a Master's level medical school-based anesthesiologist's assistant educational program that:

(i) Is accredited by the Committee on Allied Health Education and Accreditation; and

(ii) Includes approximately two years of specialized basic science and clinical education in anesthesia at a level that builds on a premedical undergraduate science background.

* * * * *

Dated: March 28, 2003.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 03–8014 Filed 4–2–03; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

32 CFR Part 312

Office of the Inspector General; Privacy Act; Implementation

AGENCY: Office of the Inspector General, DoD.

ACTION: Proposed rule.

SUMMARY: The Inspector General, DoD is proposing to exempt an existing system of records in its inventory of systems of records pursuant to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

The exemptions are needed because during the course of a Freedom of Information Act (FOIA) and Privacy Act action, exempt materials from other systems of records may in turn become part of the case records in the system. To the extent that copies of exempt records from those ''other'' systems of records are entered into the Freedom of Information Act and/or Privacy Act case records, the Inspector General, DoD, hereby claims the same exemptions for the records from those ''other'' systems that are entered into this system, as claimed for the original primary systems of records which they are a part. Therefore, the Inspector General, DoD is proposing to add exemptions to an existing system of records.

DATES: Comments must be received on or before June 2, 2003 to be considered by this agency.

ADDRESSES: Send comments to the Chief, Freedom of Information Act/ Privacy Act Office, 400 Army Navy Drive, Room 201, Arlington, VA 22202–4704.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph Caucci at (703) 604–9786.

SUPPLEMENTARY INFORMATION:

Executive Order 12866, ''Regulatory Planning and Review''

It has been determined that Privacy Act rules for the Office of the Inspector General of the Department of Defense are not significant rules. The rules do not (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy; a sector of the economy; productivity; competition; jobs; the environment; public health or safety; or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another Agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive order.

Public Law 96–354, ''Regulatory Flexibility Act'' (5 U.S.C. Chapter 6)

It has been determined that Privacy Act rules for the Office of the Inspector General of the Department of Defense do not have significant economic impact on a substantial number of small entities because they are concerned only with the administration of Privacy Act systems of records within the Office of the Inspector General of the Department of Defense.

Public Law 96–511, ''Paperwork Reduction Act'' (44 U.S.C. Chapter 35)

It has been determined that Privacy Act rules for the Office of the Inspector General of the Department of Defense impose no information requirements beyond the Office of the Inspector General and that the information collected within the Office of the Inspector is necessary and consistent with 5 U.S.C. 552a, known as the Privacy Act of 1974.

Section 202, Public Law 104–4, ''Unfunded Mandates Reform Act'

It has been determined that the Privacy Act rulemaking for the Office of the Inspector General of the Department of Defense does not involve a Federal mandate that may result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of $100 million or more and that such rulemaking will not significantly or uniquely affect small governments.

Executive Order 13132, ''Federalism''

It has been determined that the Privacy Act rules for the Office of the Inspector General of the Department of Defense do not have federalism implications. The rules do not 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.

List of Subjects in 32 CFR Part 312

Privacy.

1. The authority citation for 32 CFR part 312 continues to read as follows:

Authority: Pub. L. 93–579, 88 Stat. 1896 (5 U.S.C. 552a).

2. Section 312.3 is revised to read as follows:

§ 312.3 Procedure for requesting information.

Individuals should submit written inquiries regarding all OIG files to the Administration and Logistics Services Directorate, ATTN: FOIA/PA Office, 400 Army Navy Drive, Arlington, VA 22202–4704. Individuals making a request in person must provide acceptable picture identification, such as a current driver's license.

3. Section 312.9 paragraph (a) is revised read as follows:

§ 312.9 Appeal of initial amendment decision.

(a) All appeals on an initial amendment decision should be addressed to the Administration and Logistics Services Directorate, ATTN: FOIA/PA Office, 400 Army Navy Drive, Arlington, VA 22202–4704. The appeal should be concise and should specify the reasons the requester believes that the initial amendment action by the OIG was not satisfactory. Upon receipt of the appeal, the designated official will review the request and make a determination to approve or deny the appeal.

* * * * *

4. Section 312.12 is amended by adding paragraph (h) to read as follows:

§ 312.12, Exemptions.

* * * * *

(h) *System Identifier:* CIG 01.