those qualifying members and their families.

II. Regulatory Procedures

Executive Order 12866, "*Regulatory Planning and Review*" *and Public Law 96–354,* "*Regulatory Flexibility Act*" *(5 U.S.C. 601)*

Executive Order 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 proposed rule is not a significant regulatory action and will not have a significant impact on a substantial number of small entities for purposes of the RFA. Thus this proposed rule is not subject to any of these requirements.

Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3511)

This rule will not impose additional information collection requirements on the public.

Executive Order 13132, "*Federalism*"

We have examined the impacts of the rule under Executive Order 13132 and it does not have policies that have federalism implications that would 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, therefore, consultation with State and local officials is not required.

Sec. 202, Public Law 104–4, "*Unfunded Mandates Reform Act*"

This rule does not contain unfunded mandates. It does not contain a Federal mandate that may result in the expenditure by State, local and Tribal governments, in aggregate, or by the private sector, of $100 million or more in any one year.

List of Subjects in 32 CFR Part 199

Claims, Dental health, Health care, Health insurance, Individuals with disabilities, Military personnel.

Accordingly, 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 199.17 is amended by revising paragraph (n)(2)(vi) to read as follows:

§ 199.17 TRICARE program

* * * * *

(n) * * *

(2) * * *

(vi) In accordance with guidelines issued by the Assistant Secretary of Defense for Health Affairs, reasonable travel expenses may be reimbursed for a TRICARE Prime enrollee and, when an adult non-medical attendant is necessary, for a parent or guardian of the enrollee or another member of the enrollee's family who is at least 21 years of age. Such guidelines shall be consistent with appropriate provisions of generally applicable Department of Defense rules and procedures governing travel expenses. Reimbursement of reasonable travel expenses shall be provided under the following conditions:

(A) When a Prime enrollee is referred by the primary care manager for medically necessary specialty care more than 100 miles away from the primary care manager's office.

(B) When an exceptional circumstance exists involving referral for specialty care for an active duty member of the uniformed Services or a dependent of an active duty member of the uniformed Services enrolled in Prime or in TRICARE Prime Remote. An exceptional circumstance exists when the enrollee is referred for medically necessary specialty care requiring travel beyond a 60-minute drive time but within 100 miles of the military treatment facility or the TRICARE Prime Remote primary care manager's office. The Director, TRICARE shall issue guidelines and procedures under which authorization of travel expenses will be issued based on verification that a specialty care provider or specific category of specialty care provider is not available within 60- minute drive time but less than 100 miles from a referring military treatment facility or TRICARE Prime Remote primary care manager's office. The guidelines and procedures shall also include verification that the Managed Care Support Contractor has used due diligence in attempting to enroll into the network needed specialists who meet the normal drive time specialty care access standards or has otherwise identified non-network providers within the specialty care access standards to whom a Prime enrollee may be referred without incurring point of service costs. The Director, TRICARE may establish and make available a list of military treatment facilities and specialty providers for each for which these reasonable travel expenses shall be allowed and shall ensure that members and their families enrolled in TRICARE Prime Remote obtain assistance in receiving this benefit when appropriate.

* * * * *

Dated: January 4, 2011.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2011–622 Filed 1–12–11; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 199

[DOD–2011–HA–0007]

RIN 0720–AB43

TRICARE Reimbursement Revisions

AGENCY: Office of the Secretary, DoD.

ACTION: Proposed rule.

SUMMARY: The rule proposes several revisions to the regulation necessary to be consistent with Medicare, to include: hospice periods of care; reimbursement of physician assistants and assistant-at-surgery claims; and this rule revises the regulation by removing references to specific numeric Diagnosis Related Group (DRG) values, and replacing them with their narrative description.

DATES: Written comments received at the address indicated below by March 14, 2011 will be accepted.

ADDRESSES: You may submit comments, identified by docket number and or Regulatory Information Number (RIN) number and title, by either of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Federal Docket Management System Office, 1160 Defense Pentagon, Washington, DC 20301–1160.

Instructions: All submissions received must include the agency name and docket number or RIN for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are

received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Ms. Ann N. Fazzini, TRICARE Management Activity, Medical Benefits and Reimbursement Systems, telephone (303) 676–3803.

SUPPLEMENTARY INFORMATION:

I. Hospice

This proposed rule revises the regulation for hospice periods of care. The Defense Authorization Act for FY 1992–1993, Public Law 102–190, directed TRICARE to provide hospice care in the manner and under the conditions provided in section 1861(dd) of the Social Security Act (42 U.S.C. 1395x(dd)). Congress' intent was for TRICARE to establish a benefit in the same manner as Medicare. TRICARE originally had the same periods of hospice care used by Medicare; however, over time the Medicare benefit changed, but TRICARE's regulation has not. The TRICARE regulation currently provides for an initial period of 90 days, a subsequent period of 90 days, a second subsequent period of 30 days, and a final period of unlimited duration. Rather than maintaining this level of specificity in the regulation and to ensure that TRICARE and Medicare's benefit periods are equal, we are revising the regulation to state that the distinct periods of care available under the hospice benefit shall be the same as those offered under Medicare's hospice program. Currently under Medicare, patients are entitled to two 90-day election periods, followed by an unlimited number of 60-day periods. The level of specific benefits shall be included in the TRICARE Reimbursement Manual, and may be accessed at *http://www.tricare.mil.*

II. Physician Assistants and Assistant-at-Surgery

The current regulatory language references specific reimbursement percentages for assistant-at-surgery reimbursement. Rather than including these specific percentage amounts, which would require a regulatory change any time the percentage amounts change, we are making a general statement referring to the current percentages used by Medicare. Our authority for this is 10 U.S.C. 1079(h) which states: Except as provided in paragraphs (2) and (3), payment for a charge for services by an individual health care professional (or other noninstitutional health care provider) for which a claim is submitted under a plan contracted for under subsection (a) shall be equal to an amount determined to be appropriate, to the extent practicable, in accordance with the same reimbursement rules as apply to payments for similar services under title XVIII of the Social Security Act (42 U.S.C. 1395 *et seq.*). The Secretary of Defense shall determine the appropriate payment amount under this paragraph in consultation with the other administering Secretaries. The specific percentages are more appropriately included in the TRICARE Reimbursement Manual, and may be accessed at *http://www.tricare.mil.*

III. DRG

10 U.S.C. 1079(j)(2) provides that the amount to be paid to a provider of services for services provided under a plan covered by this section shall be determined under joint regulations to be prescribed by the administering Secretaries which provide that the amount of such payments shall be determined to the extent practicable in accordance with the same reimbursement rules as apply to payments to providers of services of the same type under title XVIII of the Social Security Act (42 U.S.C. 1395 *et seq.*).

In accordance with the above statute, the TRICARE/CHAMPUS DRG-based payment system transitioned to adopting the Medicare Severity-DRG based payment system on October 1, 2008. When TRICARE transitioned to the severity-based system, it was necessary to renumber the existing DRGs, and to assign different narrative descriptions to the DRG numbers. As a result, the existing regulatory reference to specific DRG numbers and descriptions became obsolete, so we are removing the numeric references in the regulation and utilizing only the descriptive terminology.

Regulatory Procedures

Executive Order 12866, "*Regulatory Planning and Review*"

Section 801 of title 5, United States Code, and Executive Order (E.O.) 12866 require certain regulatory assessments and procedures for any major rule or 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. It has been certified that this rule is not economically significant. It has been reviewed by the Office of Management and Budget as required under the provisions of E.O. 12866.

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

Section 202 of Public Law 104–4, "Unfunded Mandates Reform Act," requires that an analysis be performed to determine whether any Federal mandate may result in the expenditure by State, local and Tribal governments, in the aggregate, or by the private sector of $100 million in any one year. It has been certified that this proposed rule does not contain a Federal mandate that may result in the expenditure by State, local and Tribal governments, in aggregate, or by the private sector, of $100 million or more in any one year, and thus this proposed rule is not subject to this requirement.

Public Law 96–354, "*Regulatory Flexibility Act*" *(RFA) (5 U.S.C. 601)*

Public Law 96–354, "Regulatory Flexibility Act" (RFA) (5 U.S.C. 601), requires that each Federal agency prepare a regulatory flexibility analysis when the agency issues a regulation which would have a significant impact on a substantial number of small entities. This proposed rule is not an economically significant regulatory action, and it has been certified that it will not have a significant impact on a substantial number of small entities. Therefore, this proposed rule is not subject to the requirements of the RFA.

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

This rule does not contain a "collection of information" requirement, and will not impose additional information collection requirements on the public under Public Law 96–511, "Paperwork Reduction Act" (44 U.S.C. Chapter 35).

Executive Order 13132, "*Federalism*"

E.O. 13132, "Federalism," requires that an impact analysis be performed to determine whether the rule has federalism implications that would 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. It has been certified that this proposed rule does not have federalism implications, as set forth in E.O. 13132.

List of Subjects in 32 CFR Part 199

Claims, Dental health, Health care, Health insurance, Individuals with disabilities, Military personnel.

Accordingly, 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 199.4 is amended by revising paragraph (e)(19)(v) to read as follows:

§ 199.4 Basic program benefits

* * * * *

(e) * * *

(19) * * *

(v) Periods of care. Hospice care is divided into distinct periods of care. The periods of care that may be elected by the terminally ill CHAMPUS beneficiary shall be as the Director, TRICARE determines to be appropriate, but shall not be less than those offered under Medicare's Hospice Program.

* * * * *

3. Section 199.14 is amended by revising paragraphs (a)(1)(ii)(C)(*3*), (a)(1)(iii)(A)(*2*), and (j)(1)(ix) to read as follows:

§ 199.14 Provider reimbursement methods

* * * * *

(a) * * *

(1) * * *

(ii) * * *

(C) * * *

(*3*) All services related to heart and liver transplantation for admissions prior to October 1, 1998, which would otherwise be paid under the respective DRG.

* * * * *

(iii) * * *

(A) * * *

(*2*) Remove DRGs. Those DRGs that represent discharges with invalid data or diagnoses insufficient for DRG assignment purposes are removed from the database.

* * * * *

(j) * * *

(1) * * *

(ix) The allowable charge for physician assistant services other than assistant-at-surgery shall be at the same percentage, used by Medicare, of the allowable charge for a comparable service rendered by a physician performing the service in a similar location. For cases in which the physician assistant and the physician perform component services of a procedure other than assistant-at-surgery (*e.g.,* home, office or hospital visit), the combined allowable charge for the procedure may not exceed the allowable charge for the procedure rendered by a physician alone. The allowable charge for physician assistant services performed as an assistant-at-surgery shall be at the same percentage, used by Medicare, of the allowable charge for a physician serving as an assistant surgeon when authorized as CHAMPUS benefits in accordance with the provisions of § 199.4(c)(3)(iii). Physician assistant services must be billed through the employing physician who must be an authorized CHAMPUS provider.

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Dated: January 5, 2011.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2011–624 Filed 1–12–11; 8:45 am]

BILLING CODE 5001–06–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2010–0675; FRL–9250–9]

Approval and Promulgation of Air Quality Implementation Plans; Minnesota; Gopher Resource, LLC

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a request submitted by the Minnesota Pollution Control Agency (MPCA) on July 29, 2010, to revise the Minnesota State Implementation Plan (SIP) for lead (Pb) under the Clean Air Act (CAA). The State has submitted a joint Title I/Title V document (joint document) in the form of Air Emission Permit No. 03700016–003, and has requested that the conditions laid out with the citation "Title I Condition: SIP for Lead NAAQS" replace an existing Administrative Order (Order) as the enforceable SIP conditions for Gopher Resource, LLC. EPA approved the existing Order on October 18, 1994. MPCA's July 29, 2010, revisions were meant to satisfy the maintenance requirements for the 1978 Pb National Ambient Air Quality Standard (NAAQS), promulgated at 1.5 micrograms per cubic meter, or 1.5 $\mu g/m^3$.

DATES: Comments must be received on or before February 14, 2011.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2010–0675, by one of the following methods:

1. *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.

2. *E-mail: mooney.john@epa.gov.*

3. *Fax:* (312) 692–2551.

4. *Mail:* John M. Mooney, Chief, Attainment Planning and Maintenance Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

5. *Hand Delivery:* John M. Mooney, Chief, Attainment Planning and Maintenance Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

Please see the direct final rule which is located in the Final Rules section of this **Federal Register** for detailed instructions on how to submit comments.

FOR FURTHER INFORMATION CONTACT: Andy Chang, Environmental Engineer, Attainment Planning and Maintenance Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–0258, *chang.andy@epa.gov.*

SUPPLEMENTARY INFORMATION: In the Final Rules section of this **Federal Register**, EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If we do not receive any adverse comments in response to this rule, we do not contemplate taking any further action. If EPA receives adverse comments, we will withdraw the direct final rule, and will address all public comments in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment. For additional information, see the direct final rule, which is located in the Final Rules section of this **Federal Register**.