

in 31 CFR 285.11. Administrative wage garnishment will not affect a significant number of TMA debtors, as TMA estimates 6% of its debt cases and less than 0.3% of total debt may be eligible for collection with this tool.

**DATES:** TMA's adoption of the Department of the Treasury's administrative wage garnishment procedures is effective 30 days after publication of the notice.

**ADDRESSES:** TRICARE Management Activity (TMA), Claims Collection Section, Office of General Counsel, 16401 East Centretech Parkway, Aurora, CO 80011-9066.

**FOR FURTHER INFORMATION CONTACT:** Michael R. Bibbo, TRICARE Management Activity, Office of General Counsel, telephone (303) 676-3705.

**SUPPLEMENTARY INFORMATION:** TMA's authority to recover overpayments is outlined in 32 CFR 199.11. The Federal Claims Collection Act, as amended by the Debt Collection Act of 1982 and the Debt Collection Improvement Act of 1996, and Treasury regulations implementing these statutes, provides the basic authority under which claims may be asserted pursuant to § 199.11. Specific recoupment procedures are listed at 32 CFR 199.11(f)(6), including collection by transfer of debts to Treasury or a Treasury-designated debt collection center for collection through cross servicing per 32 CFR 199.11(f)(6)(vi). Pursuant to Title 31, United States Code (U.S.C.), Section 3711(g) and 31 CFR 285.12, the Director, TMA is required to transfer legally enforceable non-tax debts that have been delinquent for more than 180 days to Treasury's FMS for collection. The FMS cross-servicing program uses various means to collect debts, including offsetting federal payments, the use of private collection agencies and the garnishment of wages through administrative wage garnishment procedures. The Treasury Financial Manual, Part 4-Chapter 4000, requires agencies transferring debts to FMS to have administrative wage garnishment procedures or regulations.

Federal agencies are authorized to collect delinquent nontax debt owed to the United States from debtors' wages by means of administrative wage garnishment in accordance with the requirements of 31 U.S.C. 3720D and 31 CFR 285.11. The implementing regulations provide due process for nontax debtors. Agencies may prescribe their own conforming regulations, containing the same substantive and procedural requirements as the Treasury final rule on wage garnishment, for the conduct of administrative wage

garnishment hearings. In the alternative, creditor agencies may adopt Treasury's administrative wage garnishment regulation, 31 CFR 285.11, without change by reference in order to authorize Treasury to use administrative wage garnishment as one of many debt collection remedies available to collect delinquent debts transferred to Treasury by a creditor agency.

Administrative wage garnishment is available for use against a narrow class of TMA's debtors. For a debtor's wages to be garnished, he or she must be an individual employed in the private sector or by a state or local government. TMA's debtors are primarily commercial medical providers. In addition, TMA debtors are often active duty or reserve military members or retirees whose debts are frequently satisfied by offsetting federal salary or retirement payments through the Defense Finance and Accounting Service. In January 2012, TMA had 1,821 open debt cases, 105 of which may have been subject to administrative wage garnishment. As these debts are generally much smaller than those incurred by commercial providers, they represent less than 0.3% of TMA open debt. With this notice, TMA adopts, without change, all of the provisions of 31 CFR 285.11 concerning administrative wage garnishment, including the Treasury hearing procedures described in 31 CFR 285.11(f). At least thirty (30) days prior to FMS initiating an administrative wage garnishment, FMS will send notice to the debtor, in accordance with the requirements of 31 CFR 285.11(e), informing the debtor that administrative wage garnishment will be initiated and how the debtor may request a hearing. If a debtor makes a timely hearing request, administrative wage garnishment will not begin until a hearing is held and a decision is sent to the debtor in accordance with the provisions of 31 CFR 285.11(f)(4). If a debtor's hearing request is untimely, FMS may suspend collection by administrative wage garnishment in accordance with the provisions of 31 CFR 285.11(f)(5). All travel expenses incurred by the debtor in connection with an in-person hearing will be borne by the debtor. This regulation does not apply to federal salary offset, the process by which federal agencies collect debts from the salaries of federal employees. Additionally, when TMA collects debts of military members or retirees through offsetting Defense Finance and Accounting Service payments, the provisions of 32 CFR 199.11(f)(6)(vii) govern.

Dated: June 20, 2012.

**Patricia Toppings,**  
*OSD Federal Register Liaison Officer,*  
*Department of Defense.*

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## DEPARTMENT OF DEFENSE

### Office of the Secretary

#### TRICARE; Implementation of TRICARE Transitional Outpatient Payments

**AGENCY:** Department of Defense (DoD).

**ACTION:** Notice of TRICARE Transitional Outpatient Payments (TTOPs)

**SUMMARY:** This notice informs hospitals of TRICARE's Transitional Outpatient Payments (TTOPs) under TRICARE's Outpatient Prospective Payment System (OPPS).

**DATES:** The TTOPs are effective January 1, 2010.

**ADDRESSES:** TRICARE Management Activity (TMA), Medical Benefits and Reimbursement Branch, 16401 East Centretech Parkway, Aurora, CO 80011-9066.

**FOR FURTHER INFORMATION CONTACT:** Ms. Martha M. Maxey, TMA, Medical Benefits and Reimbursement Branch, telephone (303) 676-3627.

**SUPPLEMENTARY INFORMATION:** With implementation of the Medicare OPPS, certain hospitals were eligible to receive additional transitional outpatient payments (TOPS) if the payments they received under the OPPS were less than the payments they could have received for the same services under the payment system in effect before the OPPS. Medicare refers to these transitional payments as hold harmless TOPs and they applied to small rural hospitals with 100 or fewer beds and rural Sole Community Hospitals (SCHs) with 100 or fewer beds. TRICARE's OPPS Final Rule, published in the **Federal Register** (73 FR 74945) on December 10, 2008, states Agency will adopt the hold harmless TOPs for rural hospitals having 100 or fewer beds and SCHs. Medicare's hold harmless TOPs was scheduled to expire January 1, 2010. TRICARE delayed implementation of its OPPS for small rural hospitals with 100 or fewer beds and rural SCHs with 100 or fewer beds until January 1, 2010, with the expectation that the Medicare TOPs would expire, negating the need to implement the TRICARE TOPs provision. The Patient Protection and Affordable Care Act (PPACA) extended the hold harmless provision under Medicare, beyond January 1, 2010; therefore TRICARE will need to

implement TOPS as of January 1, 2010. The PPACA also expanded the hold harmless provision to all SCHs.

TTOPs will be made to qualifying hospitals that have OPSS costs that are greater than their TRICARE allowed amounts using a method similar to Medicare. TRICARE will pay an amount equal to 85 percent of the difference between the estimated OPSS costs and the OPSS payment.

The process for determining the TTOPs will be outlined in a future revision to the TRICARE Reimbursement Manual. The TRICARE Reimbursement Manual is available at <http://manuals.tricare.osd.mil/>.

Dated: June 20, 2012.

**Patricia Toppings,**

*OSD Federal Register Liaison Officer,  
Department of Defense.*

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## DEPARTMENT OF DEFENSE

### Office of the Secretary

#### **TRICARE; Revised Guideline for Determining the Outpatient Prospective Payment System (OPSS) General Temporary Military Contingency Payment Adjustment (TMCPA) Amount**

**AGENCY:** Department of Defense (DoD).

**ACTION:** Notice of revised guideline for determining TRICARE's OPSS General TMCPA amount.

**SUMMARY:** This notice advises interested parties of a guideline concerning the methodology to calculate TRICARE's OPSS General TMCPA amount for qualifying hospitals.

**DATES:** The guideline for calculating TRICARE's OPSS General TMCPA amount is effective for OPSS year 4 (May 1, 2012–April 30, 2013) and subsequent years.

**ADDRESSES:** TRICARE Management Activity (TMA), Medical Benefits and Reimbursement Branch, 16401 East Centretech Parkway, Aurora, CO 80011-9066.

**FOR FURTHER INFORMATION CONTACT:** Ms. Martha M. Maxey, TMA, Medical Benefits and Reimbursement Branch, telephone (303) 676-3627.

**SUPPLEMENTARY INFORMATION:** TRICARE's OPSS Final Rule that was published in the **Federal Register** on December 10, 2008, states that TMCPAs are intended to provide additional payments above the Medicare payment level for hospitals that are "deemed essential for military readiness and

deployment in time of contingency operations."

The final rule stated that the procedures to be followed when submitting a TMCPA request would be outlined in the TRICARE Reimbursement Manual (TRM). For the first three OPSS years, (May 1, 2009–April 30, 2012), TMA implemented the criteria for General TMCPA payments and reviewed applications for General TMCPA payments. The TRM states that for qualifying hospitals, the General TMCPA adjustment cannot exceed 95 percent of the amount that would have been paid prior to implementation of OPSS.

We experienced two major problems with the approach:

1. The use of the current approach allows the payments to exceed the average payment-to-cost ratios (PCRs) paid by other payers. When DoD adopted the Medicare OPSS, the intent was to align our payment structure more closely with Medicare and assist those facilities that are "deemed essential for military readiness and deployment in time of contingency operations" by giving them a reasonable adjustment. As discussed below, paying hospitals up to 95 percent of the pre-OPSS amounts for hospital outpatient department services could be equivalent to reimbursing them at very high (PCRs), resulting in DoD paying higher rates than most purchasers of care at these facilities.

2. There is also a lack of fairness in the current method of determining General TMCPA payments for the various facilities because it is tied to the level of pre-OPSS allowed amounts. For the most part, pre-OPSS payments were made on the basis of the charges billed by the facility. DoD policy at that time was to pay these "billed charge amounts." Thus, using 95 percent of pre-OPSS allowed amounts could allow hospitals that had higher billed charges to receive higher levels of General TMCPA payments than those that had billed at lower "billed charge amounts" for the same services. This could be true even if a lower charging facility saw the same or greater number of DoD active duty and family members or if the facilities' percentage of revenue received from DoD were the same. This result is inequitable to the various facilities and inconsistent with the intent of the General TMCPA.

In an attempt to resolve these inequities, the Department looked at the rates paid by other private payers. A report published by the American Hospital Association (AHA) in December 2010 indicates that the aggregate PCRs for private payers are in the range of 1.15 to 1.35. A ratio of 1.0

means a hospital meets their costs and a ratio of greater than 1.0 means payments exceeds costs. Using an adjustment guideline to allow the Department to apply General TMCPA payments so that the total of payments to a qualifying hospital falls within these private pay norms was chosen as a method to more equitably meet DoD's objectives in making these payment adjustments. As a result, TRICARE is revising its guidelines for determining the level of payment for a General TMCPA from a maximum 95 percent of the pre-OPSS amount to a maximum PCR of 1.3 for OPSS year 4 (May 1, 2012–April 30, 2013) and subsequent years. The ratio 1.30 was selected because this is the average level of aggregate PCRs that AHA reports that hospitals have received from private payers during the 2003–2009 period. The use of a PCR as a guideline to determine the limit on the level of payment for General TMCPA payments is simple, transparent, and will provide fair and equitable payments to the qualifying hospitals and is supported by data indicating it is a reasonable approach.

The procedures that are to be followed when submitting a TMCPA request will be outlined in the TRM.

Dated: June 20, 2012.

**Patricia Toppings,**

*OSD Federal Register Liaison Officer,  
Department of Defense.*

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Project No. 2458-198]

#### **Great Lakes Hydro America, LLC; Notice of Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Protests**

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Application Type:* Amendment of License Article 408.

b. *Project No.:* 2458-198.

c. *Date Filed:* April 13, 2012.

d. *Applicant:* Great Lakes Hydro America, LLC.

e. *Name of Project:* Penobscot Mills.

f. *Location:* North Twin development, West Branch Penobscot River, Maine.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a-825r.

h. *Applicant Contact:* Kevin Bernier, Manager, Licensing and Compliance,