Authority: 29 U.S.C. 1301(a), 1302(b)(3), 1341, 1344, 1362.

2. In appendix B, a new entry is added to Table I, and Rate Set 65 is added to Table II, as set forth below. The introductory text of each table is republished for the convenience of the reader and remains unchanged.

Appendix B to Part 4044—Interest Rates Used to Value Annuities and Lump Sums

TABLE I.—ANNUITY VALUATIONS

[This table sets forth, for each indicated calendar month, the interest rates (denoted by i_1, i_2, . . ., and referred to generally as i_t) assumed to be in effect between specified anniversaries of a valuation date that occurs within that calendar month; those anniversaries are specified in the columns adjacent to the rates. The last listed rate is assumed to be in effect after the last listed anniversary date.]

For valuation dates occurring in the month—	The values of i_t are:					
	i_t	for t =	i_t	for t =	i_t	for t =
* * *	*		*		*	*
March 1999	.0530	1–20	.0525	>20	N/A	N/A

TABLE II.—LUMP SUM VALUATIONS

[In using this table: (1) For benefits for which the participant or beneficiary is entitled to be in pay status on the valuation date, the immediate annuity rate shall apply; (2) For benefits for which the deferral period is y years (where y is an integer and $0 < y \leq n_1$), interest rate i^1 shall apply from the valuation date for a period of y years, and thereafter the immediate annuity rate shall apply; (3) For benefits for which the deferral period is y years (where y is an integer and $n_1 < y \leq n_1 + n_2$), interest rate i_2 shall apply from the valuation date for a period of $y - n_1$ years, interest rate i_1 shall apply for the following n_1 years, and thereafter the immediate annuity rate shall apply; (4) For benefits for which the deferral period is y years (where y is an integer and $y > n_1 + n_2$), interest rate i_3 shall apply from the valuation date for a period of $y - n_1 - n_2$ years, interest rate i_2 shall apply for the following n_2 years, interest rate i_1 shall apply for the following n_1 years, and thereafter the immediate annuity rate shall apply.]

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_1	n_2
*	*		*	*	*	*		*
65	03–1–99	04–1–99	4.00	4.00	4.00	4.00	7	8

Issued in Washington, DC, on this 8th day of February 1999.

John Seal,

Acting Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 99–3467 Filed 2–11–99; 8:45 am]

BILLING CODE 7708–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 199

[DoD 6010.8–R]

RIN 0720–AA30

Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Individual Case Management

AGENCY: Office of the Secretary, DoD.

ACTION: Final rule.

SUMMARY: This final rule implements provisions of the 1993 National Defense Authorization Act which allows the Secretary of Defense to establish a case management program for CHAMPUS beneficiaries with extraordinary medical or psychological disorders and to allow such beneficiaries medical or psychological services, supplies, or durable medical equipment excluded by law or regulation as a TRICARE/CHAMPUS benefit. Under this program, waiver of benefit limits or exclusions to the basic TRICARE/CHAMPUS program may be authorized for beneficiaries when the provision of such services or supplies is cost effective and clinically appropriate, as compared to historical or projected TRICARE/CHAMPUS utilization of health care services. Such waivers will also provide families in crisis time for transition to other sources of support when TRICARE/CHAMPUS benefits have been exhausted. This case management program is designed to provide a cost-effective plan of care by targeting appropriate resources to meet the individual needs of the beneficiary.

DATED: March 15, 1999.

FOR FURTHER INFORMATION CONTACT: CDR Tracy Malone, TRICARE Management Activity, (703) 681–1745.

SUPPLEMENTARY INFORMATION: The Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) supplements the availability of health care in military hospitals and clinics.

Statutory Authority

The case management program is based on the authority of 10 U.S.C. 1079(a)(17), which provides:

> The Secretary of Defense may establish a program for the individual case management of a person covered by this section or section 1086 of this title who has extraordinary medical or psychological disorders and, under such a program, may waive benefit limitations contained in paragraph (5) and (13) of this subsection or section 1077(b)(1) of this title and authorize the payment for comprehensive home health care services, supplies, and equipment if the Secretary determines that such a waiver is cost effective and appropriate.

Statutory and Legislative History

This provision was enacted in 1992 by Congress as section 704 of the National Defense Authorization Act for Fiscal Year 1993, Pub. L. 102–484, Oct. 23, 1992. It is substantively identical to a provision recommended by the Department of Defense in a report to Congress submitted a few months earlier by the Assistant Secretary of Defense (Health Affairs) and entitled, ''Report to Congress: Comprehensive Home Health Care as a CHAMPUS Benefit.'' The 1992 Report to Congress and statutory

enactment were the outgrowth of a series of legislative provisions dating back to 1985, when Congress directed the Department of Defense to ''conduct a pilot test project of providing home health care'' to certain CHAMPUS beneficiaries. Department of Defense Appropriations Act, 1986, PUb. L. 99–190, Section 8084. A similar provision was enacted a year later. Department of Defense Appropriations Act, 1987, Pub. L. 99–591, Section 9074.

In 1987, Congress directed the Department of Defense to establish a second, expanded demonstration project. The statute required DoD to ''conduct an expanded pilot project of providing home Health care as part of an individualized case-managed range of benefits that may reasonably deviate from otherwise payable types, amounts and levels of care'' for patients ''with exceptionally serious, long-range, costly and incapacitating physical or mental conditions.'' Department of Defense Appropriations Act, 1988, Pub. L. 100–202, Section 8071. A similar provision was enacted the following year. Department of Defense Appropriations act, 1989, Pub. L. 100–463, Section 8058. Based on these two demonstration projects, in 1991, the House and Senate Appropriations Committees directed the Department of Defense to investigate the possibility of including comprehensive home health care as a CHAMPUS benefit and report to Congress on its findings. H. Rept. No. 102–95, p. 89; S. Rept. No. 102–154, p. 37. The resulting report to Congress led to enactment of section 1079(a)(17), which is being implemented by this final rule.

In enacting this provision, Congress took another major step to direct and allow DoD to, in the words of the previous statute, ''reasonably deviate from'' the normal, restrictive statutory coverage for health services for patients with ''exceptionally serious, long-range, costly and incapacitating'' conditions. Pub. L. 100–202, Section 8071. A dominant statutory restriction affecting health care for such patients is the statutory exclusion of ''domiciliary or custodial care.'' 10 U.S.C. Section 1077(b)(1). This exclusion is made applicable to CHAMPUS by the introductory text of 10 U.S.C. Section 1079(a) and is implemented in its most important respect for CHAMPUS by regulations at 32 CFR sections 199.2 and 199.4(e)(12).

These regulations are well known and have been the subject of litigation from time to time in recent years, including a widely circulated, adverse District of Columbia Court of Appeals decision in 1987. *Barnett* v. *Weinberger,* 818 F.2d 953 (D.C. Cir. 1987); *see also Fiduk* v. *Montgomery,* No. 3:96–CV–409 RM (N.D. Ind., Mar. 27, 1998). The regulations are also well known to Congress, which has moved to create reasonable exceptions to the statutory and regulatory exclusion of custodial care.

This was, in fact, a primary reason Congress established the case management program by enacting section 1079(a)(17), and why the statute expressly authorizes a waiver of the custodial care exclusion section of 1077(b)(1) under the case management program when ''the Secretary determines that such a waiver is cost-effective and appropriate.'' This congressional purpose was explicitly stated in the explanation of the members of the Conference Committee that agreed to the final version of the section 1079(a)(17). The Conference Report explains:

> The conferees believe the case management program is the best approach to address the need of beneficiaries for whom regular CHAMPUS benefits are limited by the custodial care exclusion and other restrictions contained in the Law and CHAMPUS regulations.

H. Conf. Rept. 102–966, 102d Cong., 2d Sess., 719. The Department of Defense agrees with Congress that the case management program is the best approach to address the custodial care issue. Culminating a series of statutory enactments dating back to 1985, the case management program will allow CHAMPUS to assist beneficiaries who need long-term custodial care to transition to programs, which, unlike CHAMPUS, provide long-term custodial care. This was a principal objective of Congress in enacting the case management program and is a principal focus of the regulatory implementation of the program.

Case Management

Case management is used in many TRICARE/CHAMPUS settings to organize acute and outpatient health care services. This final rule focuses specifically on the use of case management to address complex health care needs of catastrophically ill or injured beneficiaries, It offers a system for organizing multidisciplinary services often required for management of extraordinary medical or psychological disorders and provides a bridge between acute and long term care services generally excluded under TRICARE/CHAMPUS. It is designed to improve quality of care, control costs, and support patients and families through catastrophic medical events.

The TRICARE/CHAMPUS individual case management program seeks to achieve cost effective quality health care by considering alternatives to current TRICARE/CHAMPUS benefit limitations or exclusions that, when provided, are cost effective and clinically appropriate. Section 199.4 provides, as a case management related benefit, authority for services or supplies that would otherwise be excluded as non-medical or duplicate durable equipment, custodial care, or domiciliary care. Waivers of benefit limits will be approved and coordinated by case managers and may include, but are not limited to, services or supplies such as home healthcare, medical supplies, back-up durable medical equipment, extended skilled nursing care and home health aides. Services or supplies provided in the home by other than already recognized providers of care must fall under the auspices of a home health care agency which has been either authorized by Medicare or licensed by the State in which it operates. Providers of other services as a result of such waivers must be licensed or certified by the prevailing authority for that service. Section 199.2 revises the definition of ''treatment plan'' to include inpatient and outpatient care and adds definitions for waiver of benefit limits, case management, case manager, case management multidisciplinary team, extraordinary condition, and primary caregiver.

Eligibility

Although participation in the TRICARE/CHAMPUS case management program is voluntary, certain conditions must exist for a beneficiary to be eligible for participation. These conditions are: (1) The presence of an extraordinary medical condition which has resulted in high utilization of TRICARE/CHAMPUS resources, (2) the cost effectiveness of providing the alternative services or supplies, (3) the willingness of the beneficiary to participate, and (4) a competent patient or the presence of a primary caregiver in the home when the services provided include home health care.

Custodial Care

We expect patients and their families will require varying levels of support and time to stabilize following a catastrophic illness. Case managers will determine on a case-by-case basis the need and appropriate amount of time for temporary waivers to custodial care exclusions. Waivers to custodial care exclusions will be subject to a lifetime maximum of 365 days and must be *cost effective* when compared to available covered services. Such waivers are

designed to allow families sufficient opportunity for transition to alternative funding sources and services.

Prior Authorization

Prior authorization from case managers will be required before the delivery of any case managed benefits. Because eligibility for a waiver of benefit limits/exclusions is based on an in depth assessment of medical needs, as well as the cost effectiveness and clinical appropriateness of alternate services, any services provided absent prior authorization will not be covered by TRICARE/CHAMPUS. Retrospective requests for coverage under this program will not be authorized.

Military Health System Resource Management

To ensure cost efficient as well as cost-effective use of resources, the Department of Defense requires establishment of case management programs, as described in this rule, in all TRICARE/CHAMPUS managed care support contracts. Managed care support contractors will be authorized to make available case management services to Military Medical Treatment Facilities (MTFs). MTFs will be provided the opportunity to refer potential candidates to the appropriate TRICARE/CHAMPUS case manager. Where possible, MTFs will provide care and services or supplies in support of regional case management programs.

Beneficiary Acknowledgment

Case management is a collaborative process involving the case manager, beneficiary, primary caregiver, and professional health care providers. For case management to be successful, the beneficiary and primary caregiver must participate in the process and be aware of and agree with the requirements of the program. To document the understanding of their roles, rights and responsibilities, a standard acknowledgment, signed by the beneficiary (or representative) and the primary caregiver, will be required prior to the start of case management services.

Denial/Appeals Process

Beneficiaries and/or providers who dispute a determination regarding medical appropriateness or necessity of proposed services or treatment under the case management program might appeal those decisions. The existing *Appeal and Hearing Procedures* outlined in 32 CFR section 199.10 will be used for these cases.

CHAMPUS HHC/HHC–CM Demonstration

The 1986 Home Health Care and 1988 Home Health Care-Case Management Demonstration projects were developed to test whether case management, coupled with home healthcare benefits, could reduce medical costs and improve services to CHAMPUS beneficiaries. Under the 1986 demonstration, case management services were limited to beneficiaries who, in the absence of case managed home health care, would have remained hospitalized. The 1988 program was less restrictive and no longer required case management services only as a substitute for continued hospitalization. The General Accounting Office (GAO) addressed the effectiveness of methods for identifying potentially eligible beneficiaries and establishing the clinical appropriateness and cost-effectiveness of services provided. In its report, ''DEFENSE HEALTH CARE: Further Testing and Evaluation of Case Managed Home Care Is Needed,'' the GAO identified a need for stronger cost controls and improved targeting of potential candidates before implementation of a permanent case management program under CHAMPUS. With the GAO's recommendations and observations in mind, the Department is establishing this TRICARE/CHAMPUS case management program which provides clinically appropriate, cost effective alternatives to covered services, organizes complex or multidisciplinary services, and allows families a transition period to arrange for long term care not provided under TRICARE/CHAMPUS. The organized delivery of services for these patients is designed to improve continuity and quality of care, lower overall costs to the Department, and result in better quality of life.

Public Comments

The proposed rule was published in the **Federal Register** Thursday, January 4, 1996, (61 FR 339). Significant effort has been undetaken in the ensuing months to resolve several difficult issues, primarily relating to long term care. Providing a reasonable safety net for beneficiaries who require custodial or long-term services continues to be a difficult challenge for the health care industry. With this management program, the Department is attempting to strike a delicate balance between its primary mission of medical readiness and appropriate support for medical system beneficiaries when they are most vulnerable.

We received seven comment letters, all of which were from providers and provider associations. Several commentors were quite detailed, providing helpful insights and the benefit of many years' experience. We thank those who took the time to provide suggestions, many of which have been incorporated into this final rule. Significant items raised by commentors and our analysis of the comments are summarized below.

1. Access to Case Management Benefits

Several commentors expressed concern that the proposed rule limited case management services to catastrophically ill or injured patients and placed undue emphasis on the use of inpatient acute services as a prerequisite for this program. They point out that case management is widely used in private sector health plans to enhance the cost effective delivery of quality care for a wide range of patients, not just those facing catastrophic events. We are aware that case management has many applications, some of which are already required and used by the Department in both military medical treatment facilities and by TRICARE Managed Care Support contractors. The broad application of case management in these settings requires no new regulatory authority. This final rule specifically addresses the unique circumstances of catastrophic illness and provides new authority to waive benefit limitations/exclusions when there are more cost effective, clinically appropriate alternatives to higher intensity covered services. We agree that use of impatient services as a prerequisite for participation in this case management program inappropriately excludes opportunities for better management of certain complex of catastrophic illnesses. We have clarified eligibility requirements to extend case management benefits to individuals who have demonstrated extraordinarily high TRICARE/CHAMPUS resource utilization, regardless of whether or not treatment has included an acute inpatient stay.

2. Quality and Outcomes

One provider expressed concern that there was insufficient emphasis on quality of care, quality of life, and outcomes in the proposed rule. While cost effectiveness is an important requirement for application of the new waiver authority described in this rule, it does not take precedence over quality of care. Proposed treatment provided as part of this program must be clinically appropriate, high quality *and* cost effective. In addition to outcome measures already used by DoD, specific

performance measures for this program will be developed and included in more detailed operational guidance.

3. Primary Cargiver

We received many comments on our requirement for the presence of a primary caregiver as a condition for participation in this program. This requirement was based on the idea that individuals who required a monitored or controlled environment could not safely move outside institutional care without the presence of a primary caregiver, most likely a family member. We reasoned that primary caregivers would be essential components in this transfer, not only to assure the patient's safety, but also to participate in the effective implementation of a case management treatment plan. Commentors presented several scenarios in which individuals who would benefit from this program may not have a primary caregiver as described in the proposed rule. We agree with these comments and have modified the eligibility requirement to state there must be a patient capable of self-support or be assisted by a primary caregiver. We have retained the requirement for presence of a primary caregiver when the program includes a waiver for provision of custodial care services in the home.

4. Program Operation

We received numerous detailed comments and suggestions about specific operation of the proposed case management program, including requirements and contents for treatment plans, reporting requirements and methods for transition from case management services, These are detailed program elements, which will be included in operational policies following publication of this rule.

5. Case Management for Extraordinary Psychological Illnesses

Several commentors expressed concern that the proposed rule did not seem to allow exceptions to benefit exclusions for treatment of catastrophic physiological illness. This is not the case. The rule proposes case management services and associated appropriate relief from otherwise excluded services for both medical and psychological disorders. Exceptions to benefit limitations must be medically and/or psychologically appropriate and must be cost effective when compared to available covered services.

6. Qualifications of Case Managers

We received comments from a provider association regarding our requirement that case managers be either registered nurses or licensed social workers with at least two-year case management experience. The commentor believed this requirement should be broadened to allow other professional specialties, such as physicians or psychologists, to act as case managers. Although it is not typical practice for health plans to employ physicians, psychologists, or other similarly trained professionals as case managers; we have no objection to their acting in this capacity. Accordingly, we have modified the case manager definition to allow physicians and psychologists with at least two years experience in case management to act as case managers for TRICARE programs. This rule focuses on care of catastrophic illness or injury that requires both basic knowledge of medical and psychological disorders and experience in coordinating services for seriously ill beneficiaries. Because of this, we do not believe it appropriate to reduce professional qualifications from those proposed.

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 (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 has been reviewed and approved by OMB and under EO 12866. In addition, we certify that this rule will not significantly affect a substantial number of small entities.

Paperwork Reduction Act

This rule, as written, imposes no burden as defined by the Paperwork Reduction Act of 1995. If however, any program implemented under this rule causes such a burden to be imposed, approval therefore will be sought of the Office of Management and Budget in accordance with the Act, prior to implementation.

List of Subjects in 32 CFR Part 199

Claims, handicapped, health insurance, and military personnel.

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 199.2(b) is amended by adding new definitions in alphabetical order:

§ 199.2 Definitions.

* * * * *

Case management. Case management is a collaborative process which assesses, plans, implements, coordinates, monitors, and evaluates the options and services required to meet an individual's health needs, using communication and available resources to promote quality, cost effective outcomes.

Case managers. A licensed registered nurse, licensed clinical social worker, licensed psychologist or licensed physician who has a minimum of two (2) years case management experience.

Extraordinary condition. A complex clinical condition, which resulted, or is expected to result, in extraordinary TRICARE/CHAMPUS costs or utilization, based on thresholds established by the Director, OCHAMPUS, or designee.

Primary caregiver. An individual who renders to a beneficiary services to support the essentials of daily living (as defined in § 199.2) and specific services essential to the safe management of the beneficiary's condition.

Waiver of benefit limits. Extension of current benefit limitations under the Case Management Program, of medical care, services, and/or equipment, not otherwise a benefit under the TRICARE/CHAMPUS program.

3. Section 199.4 is amended by adding new paragraphs (e)(20) and (i) as follows:

§ 199.4 Basic program benefits.

* * * * *

(e) *Special benefit information.*

* * *

(20) *Case management services.* As part of case management for beneficiaries with complex medical or psychological conditions, payment for services or supplies not otherwise covered by the basic CHAMPUS/TRICARE program may be authorized when they are provided in accordance with § 199.4(i). Waiver of benefit limits/exclusions to the basic CHAMPUS/TRICARE program may be cost shared where it is demonstrated that the absence of such services would result in the exacerbation of an existing extraordinary condition, as defined in § 199.2, to the extent that frequent or

extensive services are required; and such services are a cost effective alternative to the Basic CHAMPUS program.

* * * * *

(i) *Case management program.* (1) *In general.* Case management, as it applies to this program, provides a collaborative process among the case manager, beneficiary, primary caregiver, professional health care providers and funding sources to meet the medical needs of an individual with an extraordinary condition. It is designed to promote quality and cost-effective outcomes through assessment, planning, implementing, monitoring and evaluating the options and services required. Payment for services or supplies limited or not otherwise covered by the basic TRICARE/CHAMPUS program may be authorized when they are provided in accordance with paragraph (i) of this section. Waiver of benefit limits/exclusions may be cost-shared where it is demonstrated that the absence of such services would result in the exacerbation of an existing extraordinary condition, as defined in § 199.2, to the extent that such services are a cost-effective alternative to the basic TRICARE/CHAMPUS program.

(2) *Applicability of case management program.* A CHAMPUS eligible beneficiary may participate in the case management program if he/she has an extraordinary condition, which is disabling and requires extensive utilization of TRICARE resources. The medical or psychological condition must also:

(i) Be contained in the latest revision of the International Classification of Diseases Clinical Modification, or the Diagnostic and Statistical Manual of Mental Disorders;

(ii) Meet at least one of the following:

(A) Demonstrate a prior history of high CHAMPUS costs in the year immediately preceding eligibility for the case management program; or

(B) Require clinically appropriate services or supplies from multiple providers to address an extraordinary condition; and

(iii) Can be treated more appropriately and cost effectively at a less intensive level of care.

(3) *Prior authorization required.* Services or supplies allowable as a benefit exception under this Section shall be cost-shared only when a beneficiary's entire treatment has received prior authorization through an individual case management program.

(4) *Cost effective requirement.* Treatment must be determined to be cost effective by comparison to alternative treatment that would otherwise be required or when compared to existing reimbursement methodology. Treatment must meet the requirements of appropriate medical care as defined in § 199.2.

(5) *Limited waiver of exclusions and limitations.* Limited waivers of exclusions and limitations normally applicable to the basic program may be granted for specific services or supplies only when a beneficiary's entire treatment has received prior authorization through the individual case management program described in paragraph (i) of this section. The Director, OCHAMPUS may grant a patient-specific waiver of benefit limits for services or supplies in the following categories, subject to the waiver requirements of this section.

(i) *Durable equipment.* The cost of a device or apparatus which does not qualify as Durable Medical Equipment (as defined in § 199.2) or back-up durable medical equipment may be shared when determined by the Director, OCHAMPUS to be cost-effective and clinically appropriate.

(ii) *Custodial care.* The cost of services or supplies rendered to a beneficiary that would otherwise be excluded as custodial care (as defined in § 199.2) may be cost-shared for a maximum lifetime period of 365 days when determined by the Director, OCHAMPUS, to be cost effective and clinically appropriate. To qualify for a waiver of benefit limits of custodial care, the patient must meet all eligibility requirements of paragraph (i) of this section, including that the absence of the waived services would result in the exacerbation of an existing extraordinary condition. In addition:

(A) The proposed treatment must be cost effective and clinically appropriate as determined by the individual case manager. For example, the treatment would be determined to be cost effective by comparison to alternative care that would otherwise be required or when compared to existing reimbursement methodology.

(B) For patients receiving care at home, there must be a primary caregiver or the patient is capable of self-support.

(iii) *Domiciliary care.* The cost of services or supplies rendered to be a beneficiary what would otherwise be excluded as domiciliary care (as defined in § 199.2) may be shared when determined by the Director, OCHAMPUS to be cost effective and clinically appropriate. Waivers for domiciliary care are subject to the same requirements as paragraphs (i)(5)(ii) of this section.

(iv) *In home services.* The cost of the following in-home services may be shared when determined by the Director, OCHAMPUS to be cost effective and clinically appropriate: nursing care, physical, occupational, speech therapy, medical social services, intermittent or part-time services of a home health aide, beneficiary transportation required for treatment plan implementation, and training for the beneficiary and primary caregiver sufficient to allow them to assume all feasible responsibility for the care of the beneficiary that will facilitate movement of the beneficiary to the least resource-intensive, clinically appropriate setting. (Qualifications for home health aides shall be based on the standards at 42 CFR 848.36.)

(6) *Case management acknowledgment.* The beneficiary, or representative, and the primary caregiver shall sign a case management acknowledgment as a prerequisite to prior authorization of case management services. The acknowledgment shall include, in part, all of the following provisions:

(i) The right to participate fully in the development and ongoing assessment of the treatment;

(ii) That all health care services for which TRICARE/CHAMPUS cost sharing is sought shall be authorized by the case manager prior to their delivery;

(iii) That there are limitations in scope and duration of the planned case management treatment, including provisions to transition to other arrangements; and

(iv) The conditions under which case management services are provided, including the requirement that the services must be cost effective and clinically appropriate;

(v) That a beneficiary's participation in the case management program shall be discontinued for any of the following reasons:

(A) The loss of TRICARE/CHAMPUS eligibility;

(B) A determination that the services or supplies provided are not cost effective or clinically appropriate;

(C) The beneficiary, or representative, and/or primary caregiver, terminates participation in writing;

(D) The beneficiary and/or primary caregiver's failure to comply with requirements in this paragraph (i); or

(E) A determination that the beneficiary's condition no longer meets the requirements of participation as described in paragraph (i) of this section.

(7) *Other administrative requirements.* (i) Qualified providers of services or items not covered under the basic

program, or who are not otherwise eligible for TRICARE/CHAMPUS authorized status, may be authorized for a time-limited period when such authorization is essential to implement the planned treatment under case management. Such providers must not be excluded or suspended as a CHAMPUS provider, must hold Medicare or state certification or licensure appropriate to the service, and must agree to participate on all claims related to the case management treatment.

(ii) Retrospective requests for authorization of waiver of benefit limits/exclusions will not be considered. Authorization of waiver of benefit limits/exclusions is allowed only after all other options for services or supplies have been considered and either appropriately utilized or determined to be clinically inappropriate and/or not cost-effective.

(iii) Experimental or investigational treatment or procedures shall not be cost-shared as an exception to standard benefits under this part.

(iv) TRICARE/CHAMPUS case management services may be provided by contractors designated by the Director, OCHAMPUS.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 99–3441 Filed 2–11–99; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD01–99–001]

RIN 2115–AA97

Safety Zone: Shlofmitz BatMitzvah Fireworks, Hudson River, Manhattan, New York

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for the Schlofmitz BatMitzvah Fireworks program located on the Hudson River, Manhattan, New York. This action is necessary to provide for the safety of life on navigable waters during the event. This action is intended to restrict vessel traffic on a portion of the Hudson River.

DATES: This rule is effective from 8:00 p.m. until 9:30 p.m., on Saturday, March 20, 1999. There is no rain date for this event.

ADDRESSES: Documents as indicated in this preamble are available for inspection or copying at Coast Guard Activities New York, 212 Coast Guard Drive, room 205, Staten Island, New York 10305, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (718) 354–4193.

FOR FURTHER INFORMATION CONTACT: Lieutenant J.P. Lopez, Waterways Oversight Branch, Coast Guard Activities New York, at (718) 354–4193.

SUPPLEMENTARY INFORMATION:

Regulatory History

Pursuant to 5 U.S.C. 553, a notice of proposed rulemaking (NPRM) was not published for this regulation. Good cause exists for not publishing an NPRM and for making this regulation effective less than 30 days after **Federal Register** publication. Due to the date the Application for Approval of Marine Event was received, there was insufficient time to draft and publish an NPRM. Any delay encountered in this regulation's effective date would be contrary to public interest since immediate action is needed to close a portion of the waterway and protect the maritime public from the hazards associated with this fireworks display.

Background and Purpose

On January 8, 1999, Bay Fireworks submitted an application to hold a fireworks program on the waters of the Hudson River. The fireworks program is being sponsored by Dr. Richard Shlofmitz. This regulation establishes a safety zone in all waters of the Hudson River within a 360 yard radius of the fireworks barge located in approximate position 40°44′49″N 074°01′02″W (NAD 1983), approximately 500 yards west of Pier 60, Manhattan, New York. The safety zone is in effect from 8:00 p.m. until 9:30 p.m. on Saturday, March 20, 1999. There is no rain date for this event. The safety zone prevents vessels from transiting a portion of the Hudson River and is needed to protect boaters from the hazards associated with fireworks launched from a barge in the area. Marine traffic will still be able to transit through the eastern 150 yards of the 850-yard wide Hudson River during the event. The Captain of the Port does not anticipate any negative impact on commercial traffic due to this event. Additionally, vessels are not precluded from mooring at or getting underway from Piers 59–62 or from the Piers at Castle Point, New Jersey. Public notifications will be made prior to the event via local notice to mariners, and marine information broadcasts.

Regulatory Evaluation

This final rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. It has not been reviewed by the Office of Management and Budget under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this final rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This funding is based on the minimal time that vessels will be restricted from the area, that vessels are not precluded from getting underway, or mooring at, Piers 59–62 and the Piers at Castle Point, New Jersey, that vessels may safely transit to the east of the zone, and extensive advance notifications which will be made.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard considered whether this rule will have a significant economic impact on a substantial number of small entities. ''Small entities'' include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

For reasons discussed in the Regulatory Evaluation above, the Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this final rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This final rule does not provide for a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this final rule under the principles and criteria contained in Executive Order 12612 and has determined that this final rule does not have sufficient implications for federalism to warrant the preparation of a Federalism Assessment.

Unfunded Mandates

Under the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), the Coast Guard must consider whether this rule will result in an annual