

condition: For example, educational counseling, vocational counseling, nutritional counseling, and counseling for socioeconomic purposes, stress management, lifestyle modification. Services provided by a certified marriage and family therapist, pastoral, or mental health counselor in the treatment of a mental disorder are covered only as specifically provided in Section 199.6. Services provided by alcoholism rehabilitation counselors are covered only when rendered in a CHAMPUS-authorized treatment setting and only when the cost of those services is included in the facility's CHAMPUS-determined allowable cost rate.

* * * * *

■ 3. Section 199.6 is amended by adding paragraphs (c)(3)(iii)(L) and (M) to read as follows:

§ 199.6 TRICARE-authorized providers.

* * * * *

- (c) * * *
(3) * * *
(iii) * * *

(L) Nutritionist. A nutritionist may provide DSMT via an accredited DSMT program. The nutritionist must be licensed by the State in which the care is provided, and must be under the supervision of a physician who is overseeing the DSMT program.

(M) Registered Dietitian. A dietitian may provide DSMT via an accredited DSMT program. The dietitian must be licensed by the State in which the care is provided, and must be under the supervision of a physician who is overseeing the DSMT program.

* * * * *

Dated: July 26, 2010.

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

[FR Doc. 2010-19311 Filed 8-5-10; 8:45 am]

BILLING CODE 5001-06-P

DEPARTMENT OF DEFENSE

Office of the Secretary

[DOD-2008-HA-0025; 0720-AB20]

32 CFR Part 199

TRICARE: Changes Included in the National Defense Authorization Act for Fiscal Year 2007; Improvements to Descriptions of Cancer Screening for Women

AGENCY: Office of the Secretary, DoD.

ACTION: Final rule.

SUMMARY: The Department is publishing this final rule to implement section 703

of the National Defense Authorization Act (NDAA) for Fiscal Year 2007 (FY07), Public Law 109-364. Specifically, that legislation authorizes breast cancer screening and cervical cancer screening for female beneficiaries of the Military Health System, instead of constraining such testing to mammograms and Papanicolaou smears. The rule allows coverage for "breast cancer screening" and "cervical cancer screening" for female beneficiaries of the Military Health System, instead of constraining such testing to mammograms and Papanicolaou tests. This rule ensures new breast and cervical cancer screening procedures can be added to the TRICARE benefit as such procedures are proven to be a safe, effective, and nationally accepted medical practice. This amends the cancer specific recommendations for breast and cervical cancer screenings to be brought in line with the processes for updating other cancer screening recommendations. In response to public comment on the proposed rule, this final rule includes a clarification that the benefit encompasses screening based on Health and Human Services guidelines.

DATES: Effective Date: This rule is effective September 7, 2010.

FOR FURTHER INFORMATION CONTACT: Commander James Ellzy, Office of the Chief Medical Officer, TRICARE Management Activity, telephone (703) 681-0064.

SUPPLEMENTARY INFORMATION:

A. Background

The Department of Defense updated coverage for screening with the use of the breast MRI for women in a designated high risk category as advised by the American Cancer Society. In the process of providing this additional coverage, it was discovered that because of statutory wording, there was a group of high risk women that are standard beneficiaries under the age of 35 for whom this coverage could not be provided without an amendment in the Code of Federal Regulations (CFR). Amending the CFR will provide coverage for breast MRI screening for all Department of Defense beneficiaries in the high risk category recommended by the American Cancer Society.

B. Public Comments

The Department of Defense published a proposed rule on July 24, 2009 (74 FR 36638-36639). A single comment was received asking that the language be written more clearly. The final rule includes language in section (g)(37)(viii) that is more precise in terms of which

cancers will be covered and notes that cervical and breast cancer screenings will be provided in accordance with the standards based on the guidelines from the U.S. Department of Health and Human Services.

C. Regulatory Procedures

Executive Order (EO) 12866 and Regulatory Flexibility Act

E.O. 12866 requires 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 each Federal agency prepare, and make available for public comment, a regulatory flexibility analysis when the agency issues a regulation that would have a significant impact on a substantial number of small entities. This rule is not an economically significant regulatory action and will not have a significant impact on a substantial number of small entities for purposes of the RFA, thus this final rule is not subject to any of these requirements. This rule, although not economically significant, is a significant rule under E.O. 12866 and has been reviewed by the Office of Management and Budget. Amending the CFR will provide coverage for breast MRI screening for all Department of Defense beneficiaries in the high risk category, if necessary. It is critically important that we eliminate any potential gaps in coverage for high risk individuals as quickly as possible.

Paperwork Reduction Act

This rule will not impose additional information collection requirements on the public under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3511).

Unfunded Mandates Reform Act

It has been certified that this 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 section, of \$100 million or more in any one year.

Executive Order (EO) 13132

We have examined the impact(s) of the final rule under E.O. 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.

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 amended as follows:

PART 199—CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES

■ 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:

■ A. Revising paragraphs (g)(37)(viii) and (ix).

■ B. Redesignating paragraphs (g)(37)(x) through (g)(37)(xii) as (g)(37)(xi) through (g)(37)(xiii).

■ C. Adding a new paragraph (g)(37)(x).

The revisions and additions read as follows:

§ 199.4 Basic program benefits.

* * * * *

(g) * * *

(37) * * *

(viii) Cervical and breast cancer screenings in accordance with standards issued by the Director, TRICARE Management Activity, based on guidelines from the U.S. Department of Health and Human Services. Such standards may establish a specific schedule, including frequency, age specifications, and gender of the beneficiary, as appropriate.

(ix) Health promotion and disease prevention visits may include all of the services provided pursuant to § 199.18(b)(2) and may be provided in connection with immunizations and cancer screening examinations authorized by paragraphs (g)(37)(ii) or (g)(37)(viii) of this section.

(x) Physical examinations for beneficiaries ages 5–11 that are required in connection with school enrollment, and that are provided on or after October 30, 2000.

* * * * *

Dated: July 26, 2010.

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

[FR Doc. 2010–19307 Filed 8–5–10; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[USCG–2009–0754]

RIN 1625–AA09

Drawbridge Operation Regulation; Elizabeth River, Eastern Branch, Norfolk, VA

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is temporarily changing the drawbridge operation regulations of the Berkley (I–264) Bridge, at mile 0.4, across the Eastern Branch of the Elizabeth River, Norfolk, VA. This change will allow the drawbridge to operate with four opening periods between the rush hours until October 5, 2012, relieving increased vehicular traffic congestion while still providing for the reasonable needs of navigation.

DATES: This rule is effective from 9 a.m. on September 4, 2010, until 2:30 p.m. on October 5, 2012.

ADDRESSES: Comments and related materials received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG–2009–0754 and are available online by going to <http://www.regulations.gov>, inserting USCG–2009–0754 in the “Keyword” box, and clicking “Search.” This material is also available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call Terrance Knowles, Environmental Protection Specialist, Fifth Coast Guard District, at 757–398–6587. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On October 9, 2009, we published a notice of temporary deviation request for comments entitled “Drawbridge Operation Regulations; Elizabeth River, Eastern Branch, Norfolk, VA” in the **Federal Register** (74 FR 52143) and a notice of proposed rulemaking (NPRM)

entitled “Drawbridge Operation Regulations; Elizabeth River, Eastern Branch, Norfolk, VA” in the **Federal Register** (74 FR 52158). We received 861 comments on the published deviation and NPRM.

On March 3, 2010, we published another notice of temporary deviation request for comments entitled “Drawbridge Operation Regulations; Elizabeth River, Eastern Branch, Norfolk, VA” in the **Federal Register** (75 FR 9521) and a supplemental notice of proposed rulemaking (SNPRM) entitled “Drawbridge Operation Regulations; Elizabeth River, Eastern Branch, Norfolk, VA” in the **Federal Register** (75 FR 9557). We received four comments on the published deviation and SNPRM. No public meeting was requested, and none was held.

Background and Purpose

On behalf of the Cities of Chesapeake and Norfolk Virginia, the Virginia Department of Transportation (VDOT) who owns and operates the lift-type Berkley Bridge requested a temporary change to the existing bridge regulations. In the closed to navigation position, the Berkley Bridge has a vertical clearance of 48 feet above mean high water. The current regulation set out in Title 33 CFR Part 117.1007(b) and (c) allows the Berkley Bridge, mile 0.4, in Norfolk, Virginia to remain closed one hour prior to the published start of a scheduled marine event regulated under § 100.501, and remain closed until one hour following the completion of the event unless the Patrol Commander designated under § 100.501 allows the bridge to open for commercial vessel traffic. In addition, the bridge shall open on signal any time except from 5 a.m. to 9 a.m. and from 3 p.m. to 7 p.m., Monday through Friday, except Federal holidays, and shall open at any time for vessels with a draft of 18 feet or more, provided that at least 6 hours advance notice has been given to the Berkley Bridge Traffic Control Room at (757) 494–2490, as required by 33 CFR 117.1007(b) and (c). Vessel traffic on this waterway consists of pleasure craft, tug and barge traffic, and ships with assist tugs seeking repairs. There is no alternate waterway route.

Due to a temporary closure of two area bridges, there has been a significant increase in vehicular traffic on the Berkley Bridge causing back-ups, delays, and congestion on the bridge and its approaches. The NPRM proposed opening the draw of the Berkley Bridge on signal at 9 a.m., 11 a.m., 1 p.m., and 2:30 p.m. from October 9, 2009 to October 5, 2012, and