

Millennium Edition published in the Proposed Rules section of today's **Federal Register**.

#### List of Subjects in 29 CFR Part 1926

Incorporation by reference, MUTCD, Occupational Safety and Health, Traffic control devices.

#### Authority and Signature

This document was prepared under the direction of John Henshaw, Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue, NW., Washington, DC 20210.

This action is taken pursuant to sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. §§ 653, 655, 657), section 4 of the Administrative Procedure Act (5 U.S.C. § 553), Section 107 of the Contract Work Hours and Safety Standards Act (Construction Safety Act), 40 U.S.C. 333, Secretary of Labor's Order No. 3-2000 (65 F.R. 50017), and 29 CFR Part 1911.

Signed at Washington, D.C., this 3rd day of April, 2002.

**John Henshaw,**

*Assistant Secretary of Labor.*

Part 1926 of Title 29 of the Code of Federal Regulations is hereby amended as set forth below:

#### PART 1926—[AMENDED]

1. The authority citation for Subpart G of Part 1926 is revised to read as follows:

**Authority:** Sec. 107, Contract Work Hours and Safety Standards Act (Construction Safety Act) (40 U. S. C. 333); secs. 4, 6, 8, Occupational Safety and Health Act of 1970 (29 U. S. C. 653, 655, 657); Secretary of Labor's Order No. 12-71 (36 FR 8754), 8-76 (41 FR 25059), 9-83 (48 FR 35736), or 3-2000 (65 FR 50017) as applicable, 29 CFR Part 1911.

#### Subpart G—[Amended]

2. Paragraph (g)(2) of § 1926.200 is revised to read as follows:

#### § 1926.200 Accident prevention signs and tags

\* \* \* \* \*

(g) \* \* \*

(2) All traffic control signs or devices used for protection of construction workers shall conform to Part VI of the Manual of Uniform Traffic Control Devices ("MUTCD"), 1988 Edition, Revision 3, September 3, 1993, FHWA-SA-94-027 or Part VI of the Manual on Uniform Traffic Control Devices, Millennium Edition, December 2000, FHWA, which are incorporated by reference. The Director of the Federal Register approves this incorporation by

reference in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. You may obtain a copy of the Millennium Edition from the following organizations: American Traffic Safety Services Association, 15 Riverside Parkway, Suite 100, Fredericksburg, VA 22406-1022; Telephone: 1-800-231-3475; FAX: (540) 368-1722; [www.atssa.com](http://www.atssa.com); Institute of Transportation Engineers, 1099 14th Street, NW, Suite 300 West, Washington, DC 20005-3438; FAX: (202) 289-7722; [www.ite.org](http://www.ite.org); and American Association of State Highway and Transportation Officials; [www.aashto.org](http://www.aashto.org); Telephone: 1-800-231-3475; FAX: 1-800-525-5562. Electronic copies of the MUTCD 2000 are available for downloading at <http://mutcd.fhwa.dot.gov/kno-millennium>. Electronic copies of the 1988 Edition MUTCD, Revision 3, are available for downloading at <http://www.osha.gov/doc/highway-workzones>. Both documents are available for inspection at the OSHA Docket Office, Room N2625, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210 or at the Office of the Federal Register, 800 North Capitol Street, NW, Suite 700, Washington, DC.

\* \* \* \* \*

3. Paragraph (a) of § 1926.201 is revised to read as follows:

#### § 1926.201 Signaling.

(a) Flaggers. Signaling by flaggers and the use of flaggers, including warning garments worn by flaggers shall conform to Part VI of the Manual on Uniform Traffic Control Devices, (1988 Edition, Revision 3 or the Millennium Edition), which are incorporated by reference in § 1926.200(g)(2).

\* \* \* \* \*

4. Section 1926.202 is revised to read as follows:

#### § 1926.202 Barricades

Barricades for protection of employees shall conform to Part VI of the Manual on Uniform Traffic Control Devices (1988 Edition, Revision 3 or Millennium Edition), which are incorporated by reference in § 1926.200(g)(2).

5. Paragraph (c) of § 1926.203 is revised to read as follows:

#### § 1926.203 Definitions applicable to this subpart.

\* \* \* \* \*

(c) *Signals* are moving signs, provided by workers, such as flaggers, or by devices, such as flashing lights, to warn of possible or existing hazards.

\* \* \* \* \*

[FR Doc. 02-8773 Filed 4-12-02; 8:45 am]

BILLING CODE 4510-26-P

## PENSION BENEFIT GUARANTY CORPORATION

### 29 CFR Parts 4022 and 4044

#### Benefits Payable in Terminated Single-Employer Plans; Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing and Paying Benefits

**AGENCY:** Pension Benefit Guaranty Corporation.

**ACTION:** Final rule.

**SUMMARY:** The Pension Benefit Guaranty Corporation's regulations on Benefits Payable in Terminated Single-Employer Plans and Allocation of Assets in Single-Employer Plans prescribe interest assumptions for valuing and paying benefits under terminating single-employer plans. This final rule amends the regulations to adopt interest assumptions for plans with valuation dates in May 2002. Interest assumptions are also published on the PBGC's Web site (<http://www.pbgc.gov>).

**EFFECTIVE DATE:** May 1, 2002.

#### FOR FURTHER INFORMATION CONTACT:

Harold J. Ashner, Assistant General Counsel, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005, 202-326-4024. (TTY/TDD users may call the Federal relay service toll-free at 1-800-877-8339 and ask to be connected to 202-326-4024.)

**SUPPLEMENTARY INFORMATION:** The PBGC's regulations prescribe actuarial assumptions—including interest assumptions—for valuing and paying plan benefits of terminating single-employer plans covered by title IV of the Employee Retirement Income Security Act of 1974. The interest assumptions are intended to reflect current conditions in the financial and annuity markets.

Three sets of interest assumptions are prescribed: (1) A set for the valuation of benefits for allocation purposes under section 4044 (found in Appendix B to Part 4044), (2) a set for the PBGC to use to determine whether a benefit is payable as a lump sum and to determine lump-sum amounts to be paid by the PBGC (found in Appendix B to Part 4022), and (3) a set for private-sector pension practitioners to refer to if they wish to use lump-sum interest rates determined using the PBGC's historical methodology (found in Appendix C to Part 4022).

Accordingly, this amendment (1) adds to Appendix B to Part 4044 the interest assumptions for valuing benefits for allocation purposes in plans with valuation dates during May 2002, (2)

adds to Appendix B to Part 4022 the interest assumptions for the PBGC to use for its own lump-sum payments in plans with valuation dates during May 2002, and (3) adds to Appendix C to Part 4022 the interest assumptions for private-sector pension practitioners to refer to if they wish to use lump-sum interest rates determined using the PBGC's historical methodology for valuation dates during May 2002.

For valuation of benefits for allocation purposes, the interest assumptions that the PBGC will use (set forth in Appendix B to part 4044) will be 5.90 percent for the first 25 years following the valuation date and 4.25 percent thereafter. These interest assumptions represent an increase (from those in effect for April 2002) of 0.40 percent for the first 25 years following the valuation date and are otherwise unchanged.

The interest assumptions that the PBGC will use for its own lump-sum payments (set forth in Appendix B to part 4022) will be 4.75 percent for the period during which a benefit is in pay status and 4.00 percent during any years preceding the benefit's placement in pay status. These interest assumptions represent an increase (from those in effect for April 2002) of 0.50 percent for

the period during which a benefit is in pay status and are otherwise unchanged.

For private-sector payments, the interest assumptions (set forth in Appendix C to part 4022) will be the same as those used by the PBGC for determining and paying lump sums (set forth in Appendix B to part 4022).

The PBGC has determined that notice and public comment on this amendment are impracticable and contrary to the public interest. This finding is based on the need to determine and issue new interest assumptions promptly so that the assumptions can reflect, as accurately as possible, current market conditions.

Because of the need to provide immediate guidance for the valuation and payment of benefits in plans with valuation dates during May 2002, the PBGC finds that good cause exists for making the assumptions set forth in this amendment effective less than 30 days after publication.

The PBGC has determined that this action is not a "significant regulatory action" under the criteria set forth in Executive Order 12866.

Because no general notice of proposed rulemaking is required for this amendment, the Regulatory Flexibility

Act of 1980 does not apply. See 5 U.S.C. 601(2).

## List of Subjects

### 29 CFR Part 4022

Employee benefit plans, Pension insurance, Pensions, Reporting and recordkeeping requirements.

### 29 CFR Part 4044

Employee benefit plans, Pension insurance, Pensions.

In consideration of the foregoing, 29 CFR parts 4022 and 4044 are amended as follows:

## PART 4022—BENEFITS PAYABLE IN TERMINATED SINGLE-EMPLOYER PLANS

1. The authority citation for part 4022 continues to read as follows:

**Authority:** 29 U.S.C. 1302, 1322, 1322b, 1341(c)(3)(D), and 1344.

2. In appendix B to part 4022, Rate Set 103, as set forth below, is added to the table. (The introductory text of the table is omitted.)

### Appendix B to Part 4022—Lump Sum Interest Rates for PBGC Payments

\* \* \* \* \*

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		i <sub>1</sub>	i <sub>2</sub>	i <sub>3</sub>	n <sub>1</sub>	n <sub>2</sub>
* 103	* 5-1-02	* 6-1-02	* 4.75	* 4.00	* 4.00	* 4.00	* 7	* 8

3. In appendix C to part 4022, Rate Set 103, as set forth below, is added to the table. (The introductory text of the table is omitted.)

### Appendix C to Part 4022—Lump Sum Interest Rates for Private-Sector Payments

\* \* \* \* \*

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		i <sub>1</sub>	i <sub>2</sub>	i <sub>3</sub>	n <sub>1</sub>	n <sub>2</sub>
* 103	* 5-1-02	* 6-1-02	* 4.75	* 4.00	* 4.00	* 4.00	* 7	* 8

## PART 4044—ALLOCATION OF ASSETS IN SINGLE-EMPLOYER PLANS

4. The authority citation for part 4044 continues to read as follows:

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

5. In appendix B to part 4044, a new entry, as set forth below, is added to the table. (The introductory text of the table is omitted.)

### Appendix B to Part 4044—Interest Rates Used to Value Benefits

\* \* \* \* \*

For valuation dates occurring in the month—

The values of  $i_t$  are:

	$i_t$	for $t =$	$i_t$	for $t =$	$i_t$	for $t =$
	*		*		*	
May 2002 .....	.0590	1–25	.0425	>25	N/A	N/A

Issued in Washington, DC, on this 9th day of April 2002.

**Steven A. Kandarian,**

*Executive Director, Pension Benefit Guaranty Corporation.*

[FR Doc. 02–9064 Filed 4–12–02; 8:45 am]

BILLING CODE 7708–01–P

## DEPARTMENT OF DEFENSE

### Office of the Secretary

#### 32 CFR Part 199

RIN–0720–AA60

#### TRICARE; Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Bonus Payments in Medically Underserved Areas

**AGENCY:** Office of the Secretary, DoD.

**ACTION:** Final rule.

**SUMMARY:** This final rule implements a bonus payment, in addition to the amount normally paid under the allowable charge methodology, to physicians in medically underserved areas. For purposes of this rule, medically underserved areas are the same as those determined by the Secretary of Health and Human Services for the Medicare program. Such bonus payments shall be equal to the bonus payments authorized by Medicare, except as necessary to recognize any unique or distinct characteristics or requirements of the TRICARE program, and as described in instructions issued by the Executive Director, TRICARE Management Activity. This rule promotes a reimbursement enhancement to a limited number of physicians designed to increase TRICARE beneficiary access to care.

**EFFECTIVE DATE:** This rule is effective August 2, 2000.

**ADDRESSES:** TRICARE Management Activity, Medical Benefits and Reimbursement Systems, 16401 East Centretech Parkway, Aurora, CO 80011–9043.

**FOR FURTHER INFORMATION CONTACT:** Stan Regensberg, Medical benefits and Reimbursement Systems, TRICARE Management Activity, telephone (303) 676–3742.

**SUPPLEMENTARY INFORMATION:**

## I. Final Rule Provisions

### A. Overview

This final rule implements a bonus payment, in addition to the amount normally paid under the allowable charge methodology, to physicians in medically underserved areas. This action is undertaken under authority of Title 10, United States Code Chapter 55, section 1079, Paragraph (h)(1). For purposes of this rule, medically underserved areas are the same as those determined by the Secretary of Health and Human Services for the Medicare program, as described below. Such bonus payments shall be equal to the bonus payments authorized by Medicare, except as necessary to recognize any unique or distinct characteristics or requirements of the TRICARE program, and as described in instructions issued by the Executive Director, TRICARE Management Activity. Bonus payments under Medicare are described below. If the Department of Health and Human Services acts to amend or remove the provision for bonus payments under Medicare, TRICARE likewise may follow Medicare in amendment or removing provision for such payments. Additionally, it provides a reimbursement enhancement that favors physicians in underserved areas, thus alleviating healthcare access problems experienced by beneficiaries residing in such areas. Finally, because Medicare previously established a bonus payment reimbursement mechanism in these areas, our emulation of this well established mechanism complies with existing statutory mandates that TRICARE follow Medicare reimbursement policy wherever practicable. This rule will not unilaterally increase payments to all physicians, but just those residing in these underserved areas. To do otherwise would prevent TRICARE Management Activity from fulfilling its duty to beneficiaries in these underserved areas.

### B. Medicare Underserved Areas

For Medicare, “medically underserved areas” are those HPSAs (Health Professional Shortage Areas) designated by the Bureau of Primary Health Care (BPHC) within the Health

Resources and Services Administration (HRSA). HRSA defines the areas through a set of criteria and publishes lists which have names of the areas (sometimes by county, sometimes by census tract, or other descriptive definitions). The HPSAs are areas considered to have a shortage of primary care physicians, but Medicare pays the bonus payment for all physician services in these geographic areas. Medicare carriers are responsible for determining the boundaries of the HPSAs and qualifying physicians within these areas. Areas are to have a shortage of primary care health physicians; many are rural but that is not a criterion for inclusion; poor inter-city geographic areas are often included.

### C. Medicare Bonus Payments

The Medicare program pays physicians that provide services in medically underserved areas a bonus payment equal to ten percent of their Medicare payments, and the Medicare carriers calculate and pay these bonus payments quarterly by summing the amount of government payment from claims with a special modifier (QB or QU) which indicates that the service was provided in such an area (i.e., this is not an increase in the allowed amount nor does it produce a special fee schedule for this type of service, it is simply a bonus payment). The Medicare bonus payment is based on § 1833(b) of the Social Security Act.

## II. Public Comments

A 60-day comment period was provided on the interim final rule. Comments were received from only two parties. Both the American Psychiatric Association and the Veterans Health Administration comments concerned the process that would be used to implement the bonus payment reimbursement system. The process that shall be used will pay physicians that provide services in health professional shortage areas the same additional payment that Medicare would pay in these areas. TRICARE contractors that administer and pay for physician services will inform physicians of the process that will be followed in order to receive the bonus payment from TRICARE. There was some confusion that occurred between the bonus