

Class E6 airspace designations are published in paragraph 6006 of FAA Order 7400.11E, dated July 21, 2020, and effective September 15, 2020, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

#### Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order 7400.11E, Airspace Designations and Reporting Points, dated July 21, 2020, and effective September 15, 2020. FAA Order 7400.11E is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11E lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

#### The Rule

This amendment to 14 CFR part 71 establishes Class E en route domestic airspace extending upward from 1,200 feet above the surface at Mountain Home, ID. This action provides controlled airspace to facilitate vectoring of IFR aircraft under the control of Salt Lake City ARTCC. The airspace also ensures proper containment of IFR aircraft operating on direct routes where the current en route structure is insufficient.

FAA Order 7400.11, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

#### Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial, and unlikely to result in adverse or negative comments. It, therefore: (1) Is not a “significant regulatory action” under Executive Order 12866; (2) is not a “significant rule” under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

#### Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1F, “Environmental Impacts: Policies and Procedures,” paragraph 5–6.5a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant the preparation of an environmental assessment.

#### List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

#### Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

#### PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

**Authority:** 49 U.S.C. 106(f), 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

##### § 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11E, Airspace Designations and Reporting Points, dated July 21, 2020, and effective September 15, 2020, is amended as follows:

*Paragraph 6006 En Route Domestic Airspace Areas.*

\* \* \* \* \*

#### ANM ID E6 Mountain Home, ID [New]

That airspace extending upward from 1,200 feet above the surface within an area beginning at lat. 43°05'36" N, long 114°51'26" W, to lat. 42°26'27" N, long. 114°57'44" W; to lat. 42°25'53" N, long. 116°03'43" W; to lat. 43°07'42" N, long. 116°44'08" W; to lat. 44°03'18" N, long. 117°05'05" W; to lat. 44°15'42" N, long. 116°19'34" W; to lat. 44°03'41" N, long. 116°12'15" W; to lat. 43°58'04" N, long. 115°51'09" W; to lat. 43°47'52" N, long. 115°41'21" W; to lat. 43°30'14" N, long. 115°36'38" W; to lat. 43°17'24" N, long. 115°41'05" W; to lat. 43°03'38" N, long. 115°19'32" W; then to the point of beginning.

Issued in Des Moines, Washington, on July 1, 2021.

**B.G. Chew,**

*Acting Group Manager, Operations Support Group, Western Service Center.*

[FR Doc. 2021–14556 Filed 7–8–21; 8:45 am]

**BILLING CODE 4910–13–P**

#### DEPARTMENT OF DEFENSE

#### Office of the Secretary

#### 32 CFR Part 199

[Docket ID: DOD–2016–HA–0112]

RIN 0720–AB69

#### TRICARE: Extended Care Health Option (ECHO) Respite Care

**AGENCY:** Office of the Secretary, Department of Defense (DoD).

**ACTION:** Final rule.

**SUMMARY:** The Department of Defense is amending the TRICARE regulation to allow an ECHO program beneficiary to receive, when authorized, up to sixteen (16) hours of respite care per month without a prerequisite to receive other authorized non-respite care during the same month. Currently, Active Duty Family Members who are eligible for the ECHO program can receive a maximum of 16 hours of respite care per month, in any calendar month in which the beneficiary receives other non-respite ECHO benefits (referred to as “concurrent” care). As the specific requirement for a concurrent ECHO benefit, which was originally implemented to ensure optimal medical management of the beneficiary’s ECHO-qualifying condition, is no longer necessary and may serve as an inappropriate barrier to receipt of respite services for some families, this final rule will eliminate the concurrent ECHO benefit requirement and allow an ECHO beneficiary to receive up to a maximum of 16 hours of respite care per month, regardless of whether another ECHO benefit is received in the same month.

**DATES:** This rule is effective August 9, 2021.

**FOR FURTHER INFORMATION CONTACT:** Ms. Carmen DeLeon, Defense Health Agency, TRICARE Health Plan Division, Telephone 210–536–6004.

#### SUPPLEMENTARY INFORMATION:

##### I. Executive Summary

##### A. Regulatory History

The Department published a proposed rule in the **Federal Register** on August 17, 2018 (83 FR 41026–41029) to eliminate the requirement for a beneficiary to receive a concurrent ECHO benefit in order to qualify for respite care. This change will expand access to respite care services (as recommended by the Military Compensation and Retirement Modernization Commission (MCRMC)), allowing families to access those hours

without receiving another ECHO benefit during the same month the respite care is received.

#### B. Summary of Major Provisions

The Department of Defense (the Department) remains committed to supporting Service members and their family members with special needs. Together, the Office of Community Support for Military Families with Special Needs, the Services, and the Military Health System are working to enhance and improve support for these families, including everything from complex medical management to non-clinical case management and family support services. The Department is also committed to eliminating unnecessary requirements that act as barriers to care. The requirement to receive a concurrent ECHO benefit in order to be entitled to ECHO respite care was originally imposed as a medical management tool. We now conclude that this specific requirement is no longer necessary and may serve as an inappropriate barrier to receipt of respite services for some families. Respite services for ECHO-eligible covered beneficiaries may still be appropriate and necessary even when no other ECHO services are provided (*i.e.*, where all needed care is otherwise covered under the TRICARE Basic Program or under demonstration authority).

The elimination of the requirement for a simultaneous ECHO benefit will provide maximum flexibility to families without sacrificing the goal of ensuring the safe and effective management of the beneficiary's ECHO qualifying condition. First, we note that TRICARE beneficiaries with complex medical needs may receive case management services including medical management, disease management and chronic care coordination, under the TRICARE Basic Program, regardless of whether the beneficiary is an ECHO eligible beneficiary. As the TRICARE program has evolved over time, continuing to require an ECHO eligible beneficiary to receive a concurrent ECHO benefit as a medical management tool is no longer necessary. Based on our current program structure, beneficiaries should already be receiving medical management services and the receipt of any ECHO benefit, including ECHO respite care, provides an additional opportunity to ensure the safe and effective management of the beneficiary's qualifying condition. Furthermore, in accordance with 32 CFR 199.5(h)(3), all ECHO benefits, including ECHO respite care, require authorization prior to receipt of such benefits. Paragraph 199.5(i) discusses

required documentation as a prerequisite to authorizing ECHO benefits. As a practical matter, the Home Health Aide (HHA) providing the respite services must document the health care services needed by the ECHO beneficiary in the absence of the family caregiver and the schedule for the services during the provision of respite care in order to ensure an appropriately trained provider is sent and the beneficiary's needs are met. Additional details regarding required documentation to be provided to the Managed Care Support Contractor and HHA for authorization of ECHO respite services will be published in the TRICARE Policy Manual available at <http://manuals.tricare.osd.mil>. We believe that this approach will provide greater flexibility and eliminate unnecessary barriers for families to access ECHO respite care services while still ensuring the safe and effective medical management of the beneficiary's qualifying condition(s).

#### C. Legal Authority for This Program

The ECHO program is authorized by 10 United States Code (U.S.C.) 1079(d)–(f), and has been implemented through regulation at 32 CFR 199.5 (available at [https://www.govregs.com/regulations/title32\\_chapterI\\_part199\\_section199.5](https://www.govregs.com/regulations/title32_chapterI_part199_section199.5)). Per 32 CFR 199.5(c)(7), ECHO beneficiaries are eligible for a maximum of 16 hours of respite care per month in any month during which the beneficiary otherwise receives an ECHO (other than the ECHO Home Health Care (EHH)) benefit(s). This regulation is finalized under the authority of 5 U.S.C. 301 (available at [https://www.govregs.com/uscode/title5\\_partI\\_chapter3\\_subchapterI](https://www.govregs.com/uscode/title5_partI_chapter3_subchapterI)), which allows the Secretary of Defense to prescribe regulations for the government; and 10 U.S.C. 1079(d) and (e) (available at [https://www.govregs.com/uscode/title10\\_subtitleA\\_partII\\_chapter55](https://www.govregs.com/uscode/title10_subtitleA_partII_chapter55)), which directs the Secretary of Defense to establish a program to provide extended benefits for eligible active duty dependents, which may include the provision of comprehensive health care services, including case management services, to assist in the reduction of the disabling effects of a qualifying condition of an eligible dependent. The Department is authorized to provide “respite care for the primary caregiver of the eligible dependent” as one of the specifically enumerated extended benefits under the ECHO program pursuant to 10 U.S.C. 1079(e)(6).

## II. Public Comments

Comments were received from thirty-one individuals, medical affiliated organizations, and military and veterans associations via [www.regulations.gov](http://www.regulations.gov). We have carefully considered all public comments, and specific matters raised by those comments are summarized below. We reaffirm the policies and procedures contained in the proposed rule and maintain the rationale presented in the preamble of the proposed rule.

#### A. Analysis of Public Comments

The government received many comments that were in favor of the elimination of the concurrent ECHO benefit requirement. Many comments also noted that a minimum increase of four hours to the current sixteen hours (total of twenty hours per month) was reasonable.

*Response:* Increasing the number of respite hours per month from 16 to 20 is a major change and under the law we must give the public notice and an opportunity for comment. Therefore, an increase in respite hours will not be incorporated under this final rule. A separate rule will be considered by the Department when further analysis of the appropriate number of hours of respite is conducted.

Two of these comments recommended consideration that the respite program be open to more providers than just HHAs as some beneficiaries do not require a home health nurse or aide to provide respite care to children with autism.

*Response:* Respite care consists of providing skilled and non-skilled services to a beneficiary such that in the absence of the primary caregiver, management of the beneficiary's ECHO qualifying condition and safety are provided. Therefore, 32 CFR part 1079 requires a TRICARE-authorized HHA provide the services under the ECHO program. This is critical to ensure the safety of our beneficiaries.

Twenty-four comments were received in which commenters requested that the ECHO respite benefit be aligned with the Medicaid Home and Community waiver per the 2015 MCRMC which asked that a transitional benefit be made available to cover families that are separating or retiring from active duty (AD) service.

*Response:* By law, ECHO is available only to ADFMs and therefore a transitional benefit to cover families that are separating or retiring from AD service would require legislation.

We received two comments indicating that there are several geographic areas

that cannot obtain service due to a lack of providers, or that providers have declined to accept a beneficiary when limited to 16 hours per month.

*Response:* As previously stated, in order to assure the quality of care for ECHO beneficiaries, all ECHO respite care services will be provided only by Medicare or Medicaid certified HHAs who have in effect at the time of services a valid agreement to participate in the TRICARE program. Consequently, ECHO respite services are available only in locations where there are Medicare or Medicaid certified HHAs.

Four comments included requests for the benefit to allow sibling care from the same HHA that is providing ECHO respite care.

*Response:* While this request is understandable, 32 CFR 199.5 requires respite care services be provided by a TRICARE-authorized HHA and are designed to provide health care services for the covered beneficiary. Child-care services for other members of the family is not authorized medical care.

One comment sought clarification on the amount of respite hours and impact on yearly cost, and specifically asked whether the respite hours would be incorporated into the yearly benefit limitations.

*Response:* Yes, by law, the cost of respite care under ECHO will be calculated into the yearly benefit. The Government's share of the total cost of providing such benefits in any year shall not exceed \$36,000.

#### *B. Provisions of the Final Rule*

The final rule is consistent with the proposed rule. No changes were made to the rule text as a result of comments received; however, certain provisions discussed in the proposed rule have been deleted from the final rule (e.g., increasing authorized hours beyond 16 per month).

### **III. Regulatory Analysis**

#### *A. Cost Estimate: No Concurrent Care Requirement and 16 Hours per Month Limit*

*Current Policy Baseline Costs—* Baseline (current policy) respite care costs incurred for those ECHO beneficiaries were estimated using respite care in FY18 (the latest full fiscal year data available). Out of a total of 1,267 ECHO users diagnosed with ASD, there were 66 respite care users who incurred \$48,022 in paid costs for respite care billing codes (S9122, S9123, and S9124). Of these 66 users, 17 incurred the maximum of 16 hours per month over an average of 1.7 months (total paid amount of \$10,969) and 49

incurred an average of 11.3 hours per month over an average of 2.8 months (total paid amount of \$37,053). Out of a total of 3,689 ECHO users with non-ASD diagnoses, there were 9 respite care users who incurred \$19,533 in paid costs for the three respite care billing codes. Of these 9 users, 4 incurred the maximum of 16 hours per month over an average of 7.5 months (total paid amount of \$12,262) and 5 incurred an average of 13.0 hours per month over an average of 4.4 months (total paid amount of \$7,271). Because these users are not in the EHHC program, most of these expenditures were for respite-like services. As a result, FY18 baseline costs for ECHO respite care were \$67,555 (\$10,969 + \$37,053 + \$12,262 + \$7,271; see Table 1).

*Cost of an Expanded Non-Concurrent Respite Benefit—* Incremental respite costs were estimated under the proposed policy change that would not require concurrent care for two groups of ECHO beneficiaries: (1) Those who used ECHO respite care in FY18 and (2) those who only used non-respite ECHO care in FY18. The costs associated with ADFMs using the Autism Care Demonstration (ACD), who are not currently using the respite care benefit, were also estimated. All of these ADFM beneficiaries using the ACD are enrolled in ECHO and would be eligible to use respite care under the non-concurrent policy change.

In estimating the potential costs of the policy change, beneficiaries who used ECHO respite care in FY18 were first examined. As discussed above, in FY18 there were a total of 75 respite care users: 66 diagnosed with ASD and 9 with non-ASD diagnoses. It was assumed that their average number of respite care hours per month and the paid amount per month would not change under the new benefit. However, it was also assumed that the average number of months that they would utilize respite care would increase because the number of respite care months after the change would now be unconstrained (up to a maximum of 12 months) due to the absence of concurrency. To estimate the average number of respite care months per user, FY18 data from the Comprehensive Autism Care Demonstration (ACD) was examined. It was determined that ADFM patients had an average (and median) of 8 months of care in the ACD during FY18. As a result, 8 months is a reasonable proxy for the number of months of respite care an average patient would use if the number of months were not constrained. Therefore, it was assumed that the average patient's family would use respite care

services for 8 months on average. Baseline respite users were multiplied first by average months per year of respite care per user, then by average respite hours per month, and lastly by average paid amount per hour for respite care. This results in an estimated total of \$182,235 in paid costs under the new benefit for baseline respite care users (\$51,441 + \$104,495 + \$13,079 + \$13,220).

Then, added costs for those beneficiaries currently using only non-respite ECHO care during FY18 were estimated. In order to estimate respite care user uptake rates under the expanded benefit, it is important to understand why current rates for non-EHHC ECHO users are so low (between 0.2 percent for patients not diagnosed with autism and 5 percent for patients diagnosed with autism). The National Respite Coalition Task Force has surveyed families in the civilian world on the reasons why respite care uptake is low. Five reasons possibly apply to ECHO beneficiaries: Restrictive eligibility criteria, lack of information about respite program availability, inadequate supply of trained providers, inability to relate to or trust non-family caregivers, and guilt. The Department concludes that a revised policy for ECHO respite care would be largely influenced by the first two reasons: The extent to which restricted eligibility criteria will be reduced (in our case concurrency will no longer be required) and the extent to which the current lack of information about ECHO's respite benefit is reduced. Consequently, the Department concludes that utilization rates under the revised ECHO respite benefit will largely be dependent upon (1) the fact that the respite benefit will now be available in all 12 months of the year independent of non-respite care ECHO use, and (2) the extent to which the new respite benefit would be promoted by the MCSCs, the Exceptional Family Member Program (EFMP), DHA, and related advocacy groups.

Some new beneficiaries may be drawn into the program because of the value of the new benefit (i.e., that it can be used in any month). Also, others could be drawn to use respite care because of promotion of the benefit through various media by interested parties. The MCSCs, EFMP, advocacy groups (e.g., Autism Speaks) and DHA will likely provide information by means of newsletters, web page postings, and other media. This information would then spread by word of mouth and on-line chat groups. While some studies have suggested respite care uptake rates of 15 to 20 percent, it is likely that these

rates are too high for the TRICARE ECHO population given its low level of use today. Given that current uptake rates are less than 1 percent for the ECHO population not diagnosed with autism and 5 percent for the autism-diagnosed population, it is believed that with the new information disseminated regarding the benefit, uptake rates of between 1 and 5 percent (3 percent mid-point) and 5 and 10 percent (7.5 percent mid-point) for the two groups respectively are reasonable assumptions. These assumptions imply that, in FY18, 90 non-respite ECHO users diagnosed with ASD ( $0.075 * 1,201$ ) and 110 non-respite ECHO users with non-ASD diagnoses ( $0.03 * 3,680$ ) would have used respite care if the expanded benefit had been available. Assuming that these non-respite care ECHO users take on the same average respite care utilization and cost characteristics of their respite care user counterparts (separately for those diagnosed with ASD and those with other diagnoses) assumed under the new benefit, it is estimated that these new respite care ASD users would have had \$212,753 in incremental costs and non-ASD users would have had \$322,526 in respite care costs, for a total of \$535,279, if the benefit had been available during FY18.

Finally, the additional respite care costs for the 11,138 patients who used the ACD and who were eligible for (but did not use) the ECHO program during FY18 was estimated. Under the proposed change, these patients would be able to use ECHO during any month of the year, and for the sole purpose of receiving respite care. To estimate costs for this group, the same approach noted above was used for ECHO program participants diagnosed with ASD who did not use respite care. First, it was assumed that 7.5 percent of the 11,138 ACD patients, or 835 patients, would use respite care services under the new policy. Assuming that these 835 ACD patients would have the same average respite care utilization and cost characteristics of their ECHO user counterparts diagnosed with ASD assumed under the new benefit, it was estimated that these ACD users would have had \$1,973,055 in additional respite care costs, if the benefit had been available during FY18.

In summary, it is estimated that total costs of the new benefit would have been \$2,690,569 (or  $\$182,235 + \$535,279 + \$1,973,055$ ) if the benefit had been available during FY18. The incremental costs would be \$2,623,014 in FY18 which are equal to total new respite program costs minus baseline costs.

#### B. Benefits

ADFM ECHO beneficiaries would be able to use an expanded respite benefit that would allow them to obtain the benefit in any month of the year regardless of the use of non-respite ECHO services. Under this rule, ECHO EHHC beneficiaries would continue to receive a more generous respite care benefit (a maximum of 8 hours per day, 5 days a week).

#### C. Alternatives

Two alternatives, besides this rulemaking action, were considered.

- No action. This alternative would not allow TRICARE to expand access to respite care services (as recommended by the Military Compensation and Retirement Modernization Commission (MCRMC)), allowing families to access those hours without receiving another ECHO benefit during the same month the respite care is received. The results of this alternative are not preferred.

- Next Best Alternative. Expand the respite care benefit by increasing the Monthly Respite Maximum from 16 to 20 hours. Under this alternative, which assumes that both the concurrent care requirement is eliminated and the cap on monthly hours would be increased from 16 to 20 hours, health care costs are estimated as nearly \$3.2 million in FY20. This alternative is not preferred.

- The Preferred Alternative is the final rule action being taken.

#### IV. Regulatory Procedures

*Executive Order 12866, "Regulatory Planning and Review" and Executive Order 13563, "Improving Regulation and Regulatory Review"*

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. A regulatory impact analysis must be prepared for major rules with economically significant effects (\$100 million or more in any one year). This rulemaking is neither "economically significant" as measured by the \$100 million threshold, nor is it otherwise significant.

*Congressional Review Act, 5 U.S.C. 804(2)*

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), the Office of Information and Regulatory Affairs designated this rule as not a major rule, as defined by 5 U.S.C. 804(2).

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

The Assistant Secretary of Defense for Health Affairs certifies that this final rule is not subject to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) because it would not, if promulgated, have a significant economic impact on a substantial number of small entities. Therefore, the Regulatory Flexibility Act, as amended, does not require us to prepare a regulatory flexibility analysis.

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

Section 202 of the Unfunded Mandates Reform Act of 1995 also requires that agencies assess anticipated costs and benefits before issuing any rule whose mandates require spending in any one year of \$100 million in 1995 dollars, updated annually for inflation. That threshold level is currently approximately \$140 million. This final rule will not mandate any requirements for state, local, or tribal governments or the private sector.

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

This rule will not impose significant additional information collection requirements on the public under the Paperwork Reduction Act of 1995 (44 U.S.C. 3502-3511). Existing information collection requirements of the TRICARE and Medicare programs will be utilized. TRICARE ECHO respite care providers will be coding and filing claims in the same manner as they currently are with TRICARE.

*Executive Order 13132, "Federalism"*

This rule has been examined for its impact under E.O. 13132, and it does not contain 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 powers 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 CHAMPUS**

- 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. In § 199.5, revise paragraph (c)(7) introductory text to read as follows:

**§ 199.5 TRICARE Extended Care Health Option (ECHO).**

\* \* \* \* \*

(c) \* \* \*

(7) *Respite care.* TRICARE beneficiaries enrolled in ECHO are eligible for a maximum of 16 hours of respite care per month. Respite care is defined in § 199.2. Respite care services will be provided by a TRICARE-authorized HHA and will be designed to provide health care services for the covered beneficiary. The benefit will not be cumulative, that is, any respite hours not used in one month will not be carried over or banked for use on another occasion.

\* \* \* \* \*

Dated: July 2, 2021.

**Aaron T. Siegel,**

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

[FR Doc. 2021-14614 Filed 7-8-21; 8:45 am]

**BILLING CODE 5001-06-P**

**DEPARTMENT OF EDUCATION****34 CFR Chapter II**

[Docket ID ED-2021-OESE-0045]

**Final Priorities—Effective Educator Development Division**

**AGENCY:** Office of Elementary and Secondary Education, Department of Education.

**ACTION:** Final priorities.

**SUMMARY:** The Department of Education (Department) announces priorities for the following programs of the Effective Educator Development Division (EED): Teacher and School Leader Incentive Grants (TSL), Assistance Listing Number (ALN) 84.374A; Supporting Effective Educator Development (SEED), ALN 84.423A; and Teacher Quality Partnership (TQP), ALN 84.336S. We

may use these priorities for competitions in fiscal year (FY) 2021 and later years. We propose these priorities to focus on educator development, leadership, and diversity in the various EED programs in order to improve the quality of teaching and school leadership.

**DATES:** These priorities are effective August 9, 2021.

**FOR FURTHER INFORMATION CONTACT:**

Orman Feres, U.S. Department of Education, 400 Maryland Avenue SW, Room 3C124, Washington, DC 20202. Telephone: (202) 453-6921. Email: [orman.feres@ed.gov](mailto:orman.feres@ed.gov).

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1-800-877-8339.

**SUPPLEMENTARY INFORMATION:**

**Purpose of Program:** This notice identifies final priorities for use in three Department programs: TSL, SEED, and TQP. The purpose of TSL is to assist States, local educational agencies, and nonprofit organizations to develop, implement, improve, or expand comprehensive performance-based compensation systems (PBCS) or human capital management systems (HCMS) for teachers, principals, and other school leaders (educators) (especially educators in high-need schools who raise student academic achievement and close the achievement gap between high- and low-performing students). In addition, a portion of TSL funds may be used to study the effectiveness, fairness, quality, consistency, and reliability of such systems. The SEED program provides funding to increase the number of highly effective educators by supporting the implementation of evidence-based practices that prepare, develop, or enhance the skills of educators. SEED grants allow eligible entities to develop, expand, and evaluate practices that can serve as models to be sustained and disseminated. The purposes of the TQP program are to improve student achievement; improve the quality of prospective and new teachers by improving the preparation of prospective teachers and enhancing professional development activities for new teachers; hold teacher preparation programs at institutions of higher education accountable for preparing teachers who meet applicable State certification and licensure requirements; and recruit highly qualified individuals, including minorities and individuals from other occupations, into the teaching profession.

**Program Authority:** 20 U.S.C. 1221e-3. TSL: Sections 2211-2213 of the

Elementary and Secondary Education Act of 1965, as amended (ESEA), 20 U.S.C. 6631-6633. SEED: Section 2242 of the ESEA, 20 U.S.C. 6672. TQP: Sections 200-204 of the Higher Education Act of 1965, as amended, 20 U.S.C. 1021-1022c.

We published a notice of proposed priorities (NPP) for these programs in the **Federal Register** on April 20, 2021 (86 FR 20471). The NPP contained background information and our reasons for proposing the particular priorities.

Except for minor editorial and technical revisions, there are no differences between the proposed priorities and these final priorities.

**Public Comment:** In response to our invitation in the NPP, we received 31 comments, 23 of which were relevant to the proposed priorities and 8 of which were not relevant to the proposed priorities and were not considered in the analysis. Of the 23 comments addressing the proposed priorities, 7 expressed support for the proposed priorities but either offered no specific recommendations to revise them or offered broad recommendations for strengthening the educator workforce that were outside the scope of these proposed priorities. The remaining 16 comments either expressed disagreement or broadly agreed while offering suggestions to strengthen the proposed priorities. Responses to these comments are found in the *Analysis of the Comments and Changes* below.

**Analysis of the Comments and Changes:** An analysis of the comments and of any changes to the proposed priorities follows. Generally, we do not address technical and other minor changes, or suggested changes the law does not authorize us to make under the applicable statutory authority. In addition, we do not address general comments that raise concerns not directly related to the NPP.

**Comment:** In response to Priority 1—Supporting Educators and Their Professional Growth, one commenter suggested that encouraging educators to pursue advanced credentials, such as Master's degrees, may not necessarily lead to improvements in educator effectiveness and may produce unintended incentives for educators to leave the profession.

**Discussion:** We appreciate the comment regarding the potential limited impact on educator effectiveness and potential disincentives to educator retention that could result from encouraging teachers to pursue advanced credentials. Creating or enhancing professional growth