facility (formally known as an intermediate care facility—ICF). A nursing facility must be certified by a state Medicaid agency as well as meet the conditions for participation under 42 CFR 418.100 in order to participate in CHAMPUS.

Comment 18. One commentor pointed out that CHAMPUS' requirement that short-term inpatient care be provided in Medicare participating facilities precludes/prohibits the coverage of inpatient care in VA hospitals.

Hospice care will not be allowed in VA hospitals under the provisions of this rule.

Comment 19. One commenter wanted to know if CHAMPUS intended to use the Health Care Financing Administration's (HCFA) wage index adjustments for hospice reimbursement.

Yes, CHAMPUS intends to use HCFA's wage index adjustments for hospice reimbursement. These wage indices have been in use since the inception of the Medicare hospice benefit in 1983, and are different than those used in calculation of CHAMPUS DRGs and mental health per diems.

Comment 20. Several editorial comments were received from one of CHAMPUS' administrative agencies.

All of these comments were adopted and incorporated into the final rule.

Summary of Regulatory Modifications

The following modifications were made as a result of suggestions received during the public comment period:

(1) The core services and 24-hour availability requirements were separated out as distinct provisions;

(2) the collection of cost-shares by individual hospices for outpatient drugs/biologicals and respite care was made optional under CHAMPUS; (3) regulatory language was added confirming CHAMPUS's intention of adopting future changes in Medicare reimbursement methodology; (4) procedures were added for changes in designation of hospice programs; (5) exceptions were provided for waiver of payment of other basic program services related to treatment of terminal illness; (6) a note was added regarding the information required on the treatment plan; and (7) payment provisions were modified to allow 100 percent payment of CHAMPUS allowed charges for hospice physicians providing direct patient care.

Provider Notification

The CHAMPUS contractors will be sending out letters along with CHAMPUS participation agreements, on a one time basis, to all hospice programs certified to participate in Medicare

within their jurisdictional areas. The letters will provide information regarding the new hospice benefit and encourage participation under CHAMPUS. A hospice program will be certified based solely on its appearance on a current Medicare listing. No additional information will be required except for the signed CHAMPUS participation agreement which accompanied the notification letter. Thereafter, hospice programs will have to contact the CHAMPUS contractor responsible for claims processing within their geographical area for certification under CHAMPUS. The hospice will have to provide documentation that it is certified to participate in Medicare (i.e., it meets all Medicare conditions of participation (42 CFR Part 418) relative to CHAMPUS beneficiaries) and that it and its employees are licensed in accordance with applicable Federal, State and local laws and regulations. The hospice will be provided with a participation agreement for signature if the above requirements are met. An agreement with a hospice is not timelimited and has no fixed expiration date. The agreement remains in effect until such time as there is a voluntary or involuntary termination.

Regulatory Procedures

Executive Order 12866 requires that a regulatory impact analysis be performed on any significant action. A "significant action" is defined as one which would result in an annual effect on the national economy of \$100 million or more, 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 final rule is not a major rule under Executive Order 12866. The changes set forth in this final rule are minor revisions to existing regulation. The changes made in this final rule involve an expansion of CHAMPUS benefits. In addition, this final rule will have minor impact and will not significantly affect a substantial number of small entities. In light of the above, no regulatory impact analysis is required.

We certify that this final rule has been reviewed under the provisions of the October 23, 1991, Executive Order on Civil Justice Reform. This final rule meets all applicable standards provided in that executive order.

This rule does impose minimal information collection requirements to include the following: (1) Total number of CHAMPUS inpatient hospice days; (2) total number of CHAMPUS hospice days (both inpatient and home care); (3) total number of CHAMPUS beneficiaries electing hospice care; (4) total reimbursement for CHAMPUS inpatient care; and (5) total reimbursement for all CHAMPUS hospice care (both inpatient and home care).

The fact that all CHAMPUS-approved hospice programs are subject to Medicare reporting requirements (i.e., they must be Medicare certified in order to receive CHAMPUS reimbursement), will tend to minimize the administrative burden imposed by this rule. The hospice will already have an established data collection system in place for developing these annual reports. Overall, resource allocation (administrative time) will be minimal since the number of CHAMPUS hospice beneficiaries would be disproportionately low compared to the number of Medicare patients. In other words, since the facility already has to collect, arrange, and submit the data on a majority of its patients, the administrative costs and/or burden of reporting CHAMPUS hospice patients would be minimal. The hospice would have to expand only the data collection parameters (data on CHAMPUS beneficiaries) in order to meet the requirements under this rule.

The rule represents an expansion of benefits under the CHAMPUS program, resulting in certification of a new provider category (hospice). Although hospice programs are accustomed to the proposed reporting requirements and would not view this as an administrative intrusion, the final rule has been prepared for review by the Executive Office of Management and Budget under authority of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501–3520.

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—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. 1079, 1086.

2. Section 199.2(b) is amended by adding a definition for "hospice care"