

**RECOMMENDATION 7: IMPROVE SUPPORT FOR SERVICE MEMBERS’  
DEPENDENTS WITH SPECIAL NEEDS BY ALIGNING SERVICES OFFERED  
UNDER THE EXTENDED CARE HEALTH OPTION TO THOSE OF STATE  
MEDICAID WAIVER PROGRAMS.**

**Background:**

The Exceptional Family Member Program (EFMP) provides support to Service members who have family members with special medical or educational needs.<sup>490</sup> Exceptional Family Members (EFMs) may be spouses, children, or dependent parents who require special medical or educational services for a diagnosed physical, intellectual, or emotional condition.<sup>491</sup> EFMP provides assignment coordination to ensure EFMs have access to needed medical and educational services.<sup>492</sup> When appropriate assignment coordination occurs, family members receive the care and support they require, and the Service member can focus more clearly on mission-related responsibilities. EFMs who meet specific eligibility criteria<sup>493</sup> can also register for TRICARE Extended Care Health Option (ECHO) program. This program provides financial assistance for services and supplies not available through TRICARE that are certified by TRICARE to confirm, arrest, or reduce the severity of the disabling effects of a qualifying condition.<sup>494</sup>

The ECHO program provides coverage for assistive services, durable medical equipment, and other services to support EFMs.<sup>495</sup> ECHO members may receive expanded in-home medical services through TRICARE ECHO Home Health Care (EHHC) or applied behavior analysis (ABA) reinforcement services under the DoD Enhanced Access to Autism Services Demonstration.<sup>496</sup> ECHO provides up to 16 hours of respite care during any month when at least one other ECHO benefit is received.<sup>497</sup> Respite care must be received from a TRICARE-authorized home health agency.<sup>498</sup> EHHC beneficiaries may receive respite care for up to 8 hours per day for 5 days per week for EFMs with a plan of care that requires more than two interventions during the 8-hour period per day that the primary caregiver would normally be sleeping.<sup>499</sup>

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<sup>490</sup> Military Family Readiness, DoDI 1342.22, Enclosure 3, 18-19 (2012).

<sup>491</sup> DoDI 1315.19 defines “family member” the same as “dependent.” DoDI 1342.22 provides that “dependent” will be given the same definition as that found in 37 U.S.C. § 401(a), which defines “dependent” as a spouse, a dependent parent, or an unmarried child who is either under a given age or is incapable of self-support due to a mental or physical incapacity. DoDI 1315.19 provides criteria to be used in determining when a family member is a “family member with special needs.” Criteria include certain diagnosed physical, intellectual, and emotional conditions.

<sup>492</sup> Military Family Readiness, DoDI 1342.22, Enclosure 3, 19 (2012).

<sup>493</sup> Conditions that qualify for ECHO coverage may include, but are not limited to, a diagnosis of moderate or severe mental retardation, serious physical disability, extraordinary physical or psychological condition of such complexity that the beneficiary is homebound, diagnosis of a neuromuscular developmental condition or other condition in an infant or toddler (younger than age 3) that is expected to precede a diagnosis of moderate or severe mental retardation or a serious physical disability, and multiple disabilities, which may qualify if there are two or more disabilities affecting separate body systems. National Defense, 32 CFR 199.5(b)(2). *See also* U.S. Department of Defense Military Health System, *Extended Care Health Option Fact Sheet*, accessed November 20, 2014, [http://www.tricare.mil/~media/Files/TRICARE/Publications/FactSheets/ECHO\\_FS.pdf](http://www.tricare.mil/~media/Files/TRICARE/Publications/FactSheets/ECHO_FS.pdf).

<sup>494</sup> National Defense, 32 CFR 199.5(c). *See also* U.S. Department of Defense Military Health System, *Extended Care Health Option Fact Sheet*, accessed November 20, 2014, [http://www.tricare.mil/~media/Files/TRICARE/Publications/FactSheets/ECHO\\_FS.pdf](http://www.tricare.mil/~media/Files/TRICARE/Publications/FactSheets/ECHO_FS.pdf).

<sup>495</sup> *Ibid.*

<sup>496</sup> *Ibid.*

<sup>497</sup> *Ibid.*

<sup>498</sup> *Ibid.*

<sup>499</sup> National Defense, 32 CFR 199.5(e). *See also* U.S. Department of Defense Military Health System, *Extended Care Health Option Fact Sheet*, accessed November 20, 2014, [http://www.tricare.mil/~media/Files/TRICARE/Publications/FactSheets/ECHO\\_FS.pdf](http://www.tricare.mil/~media/Files/TRICARE/Publications/FactSheets/ECHO_FS.pdf).

As shown in Table 11, Service members with dependents registered in ECHO pay a monthly cost-share, based on their rank, for every month beneficiaries use ECHO benefits.<sup>500</sup> The current ECHO benefit cap is \$36,000 per fiscal year per dependent.<sup>501</sup> EHHC is not included in this cap, but is capped at the maximum fiscal-year amount TRICARE would pay if the beneficiary resided in a skilled nursing facility based on the beneficiary's geographic location.<sup>502</sup> As of July 25, 2014, the ABA Autism Demonstration is no longer subject to this cap.<sup>503</sup>

Table 11. Monthly Cost-Shares for ECHO Participation<sup>504</sup>

Sponsor Pay Grade	Monthly Cost-Share	Sponsor Pay Grade	Monthly Cost-Share	Sponsor Pay Grade	Monthly Cost-Share
E1 to E5	\$25	E9, W1, CWO2, O3	\$45	O7	\$100
E6	\$30	W3, W4, O4	\$50	O8	\$150
E7, O1	\$35	W5, O5	\$65	O9	\$200
E8, O2	\$40	O6	\$75	O10	\$250

Service families are also eligible to apply to receive state Medicaid services for their EFM(s) in the state where they currently reside, including services available through state Medicaid waiver programs.<sup>505</sup> Waivers are used by states to develop new services and extend benefits to new populations beyond those typically provided by Medicaid.<sup>506</sup> Multiple types of waiver programs are available. The home- and community-based services (HCBS) waiver most closely aligns with the services active-duty family members with EFMs often express they need, including respite care, transportation support, and day-care for those with intellectual or developmental disabilities.<sup>507</sup> Unlike Medicaid, in which the family's income is considered as part of the eligibility process, income eligibility for HCBS waivers is based solely on the EFM's income,<sup>508</sup> allowing states to extend the Medicaid benefit to families that may not otherwise have access.<sup>509</sup> The purpose of the HCBS waiver is to meet the needs of individuals who choose to receive their long-term care services and support in their home or community, rather than in institutional settings.<sup>510</sup> ECHO participants are required to access these state and local services prior to accessing services under ECHO.<sup>511</sup> Table 12 summarizes the services offered under the HCBS waiver and ECHO programs.

<sup>500</sup> National Defense, 32 CFR 199.5(f)(2)(i).

<sup>501</sup> National Defense, 32 CFR 199.5(f)(3)(i).

<sup>502</sup> Ibid.

<sup>503</sup> See Federal Register, A Notice by The Defense Department on 06/16/2014, *Comprehensive Autism Care Demonstration*, accessed October 24, 2014, [https://www.federalregister.gov/articles/2014/06/16/2014-14023/comprehensive-autism-care-demonstration#table\\_of\\_contents](https://www.federalregister.gov/articles/2014/06/16/2014-14023/comprehensive-autism-care-demonstration#table_of_contents).

<sup>504</sup> National Defense, 32 CFR 199.5(e). See also U.S. Department of Defense Military Health System, *Extended Care Health Option Fact Sheet*, accessed June 20, 2014, <http://www.tricare.mil/Plans/SpecialPrograms/Echo.aspx>.

<sup>505</sup> The Public Health and Welfare, 42 U.S.C. § 1396a(a)(10)(ii)(VI). The Public Health and Welfare, 42 U.S.C. § 1396n.

<sup>506</sup> West Virginia University, *Medicaid and Military Families with Children with Special Healthcare Needs: Accessing Medicaid and Waivered Services*, 16, accessed June 26, 2014,

[http://www.militaryonesource.mil/12038/MOS/EFMP/EFMP\\_MedicaidReport.pdf](http://www.militaryonesource.mil/12038/MOS/EFMP/EFMP_MedicaidReport.pdf).

<sup>507</sup> Ibid.

<sup>508</sup> The Public Health and Welfare, 42 U.S.C. § 1396a(a)(10)(A)(ii)(VI). The Public Health and Welfare, 42 U.S.C. § 1396n.

<sup>509</sup> West Virginia University, *Medicaid and Military Families with Children with Special Healthcare Needs: Accessing Medicaid and Waivered Services*, 21-22, accessed June 26, 2014,

[http://www.militaryonesource.mil/12038/MOS/EFMP/EFMP\\_MedicaidReport.pdf](http://www.militaryonesource.mil/12038/MOS/EFMP/EFMP_MedicaidReport.pdf).

<sup>510</sup> See The Public Health and Welfare, 42 U.S.C. § 1396n, originally enacted as § 1915(c) of the Social Security Act of 1935.

<sup>511</sup> Armed Forces, 10 U.S.C. §1079(f)(4).

Table 12. Statutory Guidelines for HCBS Waivers and ECHO

HCBS Waiver <sup>512</sup>	ECHO <sup>513</sup>
<p>Adult Day Care: Daytime, community-based program for functionally impaired adults that provides a variety of health, nutrition, social, and related services in a protective setting to those who are otherwise being cared for by family members. Its purpose is to enable individuals to remain at home and in the community and to encourage family members to care for them by providing relief from the burden of constant care.</p>	<p>Training, rehabilitation, special education, and assistive technology devices.</p>
<p>Adult Day Habilitation Services: Day program usually serving individuals with mental retardation/developmental disabilities, teach skills such as cooking, recreation, and work skills. The individual may work part of the day with other individuals with disabilities in assembly and production work for piece rate wages or below minimum wages (Work Activities Center). In some sites, the recipient attends a center with peers learning nonvocational or prevocational skills.</p>	<p>Training, rehabilitation, special education, and assistive technology devices.</p>
<p>Adult Day Health Services: Adult day care setting that provides more health-related services.</p>	<p>Inpatient, outpatient, and comprehensive home health care supplies and services that may include cost effective and medically appropriate services other than part-time or intermittent services (within the meaning of such terms as used in the second sentence of section 1861(m) of the Social Security Act).</p>
<p>Assistive Technology: A range of equipment, machinery and devices that share the purpose of assisting or augmenting the capabilities of individuals with disabilities in almost every area of daily community life, including mobility, independence in activities of daily life, communication, employment learning and so forth. Specialized examples include wheelchairs and ramps, and electronic and printed picture/icon communication devices, but also can include tape recorders and tapes for messages, materials, instructions and so forth normally presented on paper, special large or punch switches available at a local electronics store, level door handles (as opposed to knobs) that are available at any hardware store, and telephones with single function keys for dialing certain numbers that are available at most department stores.</p>	<p>Training, rehabilitation, special education, and assistive technology devices.</p>

<sup>512</sup> The Public Health and Welfare, 42 U.S.C. § 1396n, originally enacted as § 1915(c) of the Social Security Act of 1935. West Virginia University, *Medicaid and Military Families with Children with Special Healthcare Needs: Accessing Medicaid and Waivered Services*, 100-01, accessed June 26, 2014, [http://www.militaryonesource.mil/12038/MOS/EFMP/EFMP\\_MedicaidReport.pdf](http://www.militaryonesource.mil/12038/MOS/EFMP/EFMP_MedicaidReport.pdf).

<sup>513</sup> Armed Forces, 10 U.S.C. § 1079(f)(4). National Defense, 32 CFR 199.5.

HCBS Waiver <sup>512</sup>	ECHO <sup>513</sup>
Adaptive Equipment: Physical and/or mechanical modifications to the home, vehicle or the recipient’s personal environment.	N/A, although the law states “such other services and supplies as determined appropriate by the Secretary, notwithstanding the limitations in subsection (a)(13).”
Case Management: Services that assist individuals’ access to needed medical, social, educational, and other services.	...and case management services with respect to the qualifying condition of such a dependent...
Personal Care Attendant: Services such as help balancing a checkbook, grocery shopping, developing a budget, paying bills, etc.	Custodial care, notwithstanding the prohibition in section 1077 (b)(1) of this title.
Habilitation Services: Services designed to assist individuals in acquiring, retaining, and improving the self-help, socialization, and adaptive skills necessary to reside successfully in home and community based settings; and includes prevocational, educational, and supported employment.	Training, rehabilitation, special education, and assistive technology devices.
Homemaker Services: Assistance with general household activities and ongoing monitoring of the well-being of the individual.	Custodial care, notwithstanding the prohibition in section 1077 (b)(1) of this title.
Home Health Aide: Health care professional who assists with specific health problems.	Inpatient, outpatient, and comprehensive home health care supplies and services that may include cost effective and medically appropriate services other than part-time or intermittent services (within the meaning of such terms as used in the second sentence of section 1861(m) of the Social Security Act).
Nursing Care Services: Services provided by or under the direction of a registered nurse.	Inpatient, outpatient, and comprehensive home health care supplies and services that may include cost effective and medically appropriate services other than part-time or intermittent services (within the meaning of such terms as used in the second sentence of section 1861(m) of the Social Security Act).
Personal Care Services: Direct supervision and assistance in daily living skills and activities (e.g., assisting the individual with bathing and grooming).	Custodial care, notwithstanding the prohibition in section 1077 (b)(1) of this title.

HCBS Waiver <sup>512</sup>	ECHO <sup>513</sup>
Respite Care: Short-term supervision, assistance, and care provided due to the temporary absence or need for relief of recipient's primary caregivers. This may include overnight, in-home or out-of-home services. Training for the family in managing the individual. Day treatment or other partial hospitalization, psycho-social rehabilitation services and clinical services for people with a mental illness.	Respite care for the primary caregiver of the eligible dependent.
Vocational Services: Supported employment, prevocational education, and other services not covered by other sources.	Training, rehabilitation, special education, and assistive technology devices.

*For additional information on ECHO and EFMP, please see the Report of the Military Compensation and Retirement Modernization Commission: Interim Report (Section 4.1.13.4 and Section 5.1.10.8).*

**Findings:**

The list of HCBS waiver benefits authorized by the Social Security Act<sup>514</sup> and the list of ECHO benefits authorized through TRICARE<sup>515</sup> are very similar, although actual implementation of the two programs varies.<sup>516</sup> A DoD-commissioned study published in November 2013 by West Virginia University found that Service families with special needs use Medicaid as a resource to obtain specific supplementary services and coverage.<sup>517</sup> Examples include respite care, transportation, supplies like diapers for older children, durable medical equipment, and nutritional products such as formula that are either not provided or not fully covered by TRICARE.<sup>518</sup>

Respite care is one of the greatest needs among families that have children with intellectual and developmental disabilities, such as autism.<sup>519</sup> Home and community-based waiver programs are seen as a lifeline to supplement the limited respite care benefits provided by the military health system or by the respite care programs of the various Services.<sup>520</sup>

Access to HCBS waiver benefits is a substantial issue for military families with EFMs. Service members are required to re-apply for benefits each time they move to a new state.<sup>521</sup> Many Service members encounter waiting lists that exceed their time assigned to a location.<sup>522</sup> Table 13 provides waiver waiting list estimates indicating the number of people waiting for services in each of the top 10 states with the largest active-duty

<sup>514</sup> The Public Health and Welfare, 42 U.S.C. § 1396n.

<sup>515</sup> Armed Forces, 10 U.S.C. § 1079.

<sup>516</sup> Military Family Advisory Network (MFAN), briefing to MCRMC, February 28, 2014.

<sup>517</sup> West Virginia University, *Medicaid and Military Families with Children with Special Healthcare Needs: Accessing Medicaid and Waivered Services*, 4, accessed June 26, 2014, [http://www.militaryonesource.mil/12038/MOS/EFMP/EFMP\\_MedicaidReport.pdf](http://www.militaryonesource.mil/12038/MOS/EFMP/EFMP_MedicaidReport.pdf).

<sup>518</sup> Ibid.

<sup>519</sup> Ibid.

<sup>520</sup> Ibid.

<sup>521</sup> West Virginia University, *Medicaid and Military Families with Children with Special Healthcare Needs: Accessing Medicaid and Waivered Services*, 19, accessed June 26, 2014, [http://www.militaryonesource.mil/12038/MOS/EFMP/EFMP\\_MedicaidReport.pdf](http://www.militaryonesource.mil/12038/MOS/EFMP/EFMP_MedicaidReport.pdf).

<sup>522</sup> Ibid, 5.



military populations for FY 2012.<sup>523</sup> The average waiting period during this time across all HCBS enrollment groups and all states was 27 months and the average waiting period for the largest enrollment group (EFMs with intellectual or developmental disabilities, representing 303,909 of the total 523,710 individuals on HCBS waiver waiting lists) was 47 months.<sup>524</sup>

Table 13. HCBS Waiting Lists, FY 2012

State	Waiting List Estimate	State	Waiting List Estimate
California	2,117	Washington	1,281
Virginia	7,816	Florida	51,379
Texas	160,243	Hawaii	0
North Carolina	16,869	Kentucky	0
Georgia	11,242	South Carolina	6,004

As a result, there are reported cases in which military family members leave a child in one state to live with relatives while the Service member is assigned to a new installation in a different state.<sup>525</sup> This situation occurs when the child is receiving waived services in the current state of residence and the same service is either not available or only available after a long waiting period in the state to which the Service member has been assigned.<sup>526</sup>

In FY 2013, 8,094 individuals participated in ECHO,<sup>527</sup> representing 6.3 percent of EFMP families.<sup>528</sup> Of these, 423 accessed ECHO only for primary services such as equipment, supplies, education, and training services.<sup>529</sup> The total cost of these primary services was \$1.7 million.<sup>530</sup> The other 7,671 individuals also participated in either EHHC or ABA, at a cost of \$152.6 million.<sup>531</sup>

### Conclusions:

As evidenced by the similarity in benefits authorized under the HCBS and ECHO programs, as well as the directive to use state and local services before accessing ECHO, the Congress intended ECHO as an alternative to unavailable waiver benefits. Yet ECHO benefits, as currently implemented, are not robust enough to replace state waiver programs when those programs are inaccessible to Service members and their EFMs. With the exception of home health care services and ABA therapy services, the ECHO program is not highly utilized. This is due to a lack of needed services.

<sup>523</sup> Kaiser Family Foundation, *Medicaid Home and Community-Based Services Programs: 2010 Data Update*, accessed November 10, 2014, <http://kff.org/medicaid/report/medicaid-home-and-community-based-service-programs>.

<sup>524</sup> Ibid.

<sup>525</sup> West Virginia University, *Medicaid and Military Families with Children with Special Healthcare Needs: Accessing Medicaid and Waivered Services*, 40, accessed June 26, 2014, [http://www.militaryonesource.mil/12038/MOS/EFMP/EFMP\\_MedicaidReport.pdf](http://www.militaryonesource.mil/12038/MOS/EFMP/EFMP_MedicaidReport.pdf).

<sup>526</sup> Ibid.

<sup>527</sup> Data provided by Office of the Under Secretary of Defense for Personnel and Readiness, e-mail to MCRMC, October 20, 2014.

<sup>528</sup> Data provided by Office of the Under Secretary of Defense for Personnel and Readiness, e-mail to MCRMC, October 20, 2014 and Department of Defense Annual Report to Congress on Plans for DoD for Support of Military Family Readiness, FY 2013, 45, received from Department of the Army, e-mail to MCRMC, May 22, 2014.

<sup>529</sup> Data provided by Office of the Under Secretary of Defense for Personnel and Readiness, e-mail to MCRMC, October 20, 2014.

<sup>530</sup> Ibid.

<sup>531</sup> Ibid.

**Recommendations:**

- Services covered through ECHO should be increased to more closely align with state Medicaid waiver programs, to include allowing for consumer-directed care.<sup>532</sup> Expanded services should be subject to the ECHO benefit cap of \$36,000 per fiscal year, per dependent. Specific examples include, but are not limited to:
  - expanding respite care hours to align more closely with state offerings as well as allowing families to access those hours without receiving another ECHO benefit during the same month the respite care is received
  - providing custodial care
  - providing adult diapers where necessary and appropriate

**Implementation:**

- 10 U.S.C. § 1079 governs medical care for dependents of Uniformed Services members. No change to this governing statute is recommended.
- Any other regulations (including the Code of Federal Regulations, if applicable), instructions, directives, or internal policies necessary to conform to the recommendation described above should be reissued, updated, amended, retracted, or otherwise changed as needed. Such as:
  - 32 CFR 199.5(e) should be amended to align ECHO-provided services with those provided by state Medicaid waiver programs. As described above, these changes should include, but should not be limited to, expanding respite care hours to align more closely with state offerings, removing requirements that respite care is only available to households that receive another ECHO benefit, providing custodial care, and providing adult diapers when necessary and appropriate.

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<sup>532</sup> See The Public Health and Welfare, 42 U.S.C. § 1396n(k)(3)(B).