

(Authority: 31 U.S.C. 3711(a)(2); 38 U.S.C. 501, 512).

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(Authority: 38 U.S.C. 501, 512, 1729(c)(1)).

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DEPARTMENT OF VETERANS AFFAIRS

38 CFR 17

RIN 2900-AK29

Waivers

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document amends VA's medical regulation to give Fiscal Officers at VA medical facilities the authority to waive veterans' debts arising from the medical care co-payments. This change in regulation will codify an existing 1995 delegation of authority to Fiscal Officers from the Secretary of Veterans Affairs. The purpose of this 1995 delegation was to increase the efficiency of the waiver process.

DATES: Effective Date: This rule shall become effective on November 24, 2004.

FOR FURTHER INFORMATION CONTACT: Eileen P. Downey, Business Policy, Veterans Health Administration, Chief Business Office (16), 810 Vermont Avenue, NW., Washington DC 20420, (202) 254-0347.

SUPPLEMENTARY INFORMATION: In a document published in the Federal Register on April 20, 2004 (69 FR 21075), we proposed amending 38 CFR 17.105 to give Fiscal Officers at VA medical facilities the authority to waive veterans' debts arising from the medical care co-payments.

We asked interested parties to submit comments on or before June 21, 2004. We received no comments. Based on the rationale noted above and as set forth in the proposed rule, we are adopting the proposed rule as a final rule without change.

Unfunded Mandates

The Unfunded Mandates Reform Act requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before developing any rule that may result in expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any given year. This rule will have no such effect on

State, local or tribal governments, or the private sector.

Paperwork Reduction Act

Although this document contains provisions constituting a collection of information in 38 CFR 17.105 (c) referencing VA Form 5655, under the provision of the Paperwork Reduction Act (44 U.S.C. 3501-3521), no new or proposed revised collections of information are associated with this final rule. The Office of Management and Budget has approved this information collection in VA Form 5655 under control number 2900-0165.

Regulatory Flexibility Act

The Secretary hereby certifies that this final rule would not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601 through 612. The final rule would not cause a significant economic impact on health care providers, suppliers, or entities since only a small portion of the business of such entities concerns VA beneficiaries. Therefore, pursuant to 5 U.S.C. 605(b), the final rule is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

Catalog of Federal Domestic Assistance Numbers

The Catalog of Federal Domestic Assistance numbers for the programs affected by this document are 64.005, 64.007, 64.008, 64.009, 64.010, 64.011, 64.012, 64.013, 64.014, 64.015, 64.016, 64.018, 64.019, 64.022, 64.024 and 64.025.

List of Subjects in 38 CFR Part 17

Administrative practice and procedure, Alcohol abuse, Alcoholism, Claims, Day care, Dental health, Drug abuse, Foreign relations, Government contracts, Grant programs-health, Grant programs-veterans, Health care, Health facilities, Health professions, Health records, Homeless, Medical and dental schools, Medical devices, Medical research, Mental health programs, Nursing homes, Philippines, Reporting and record-keeping requirements, Scholarships and fellowships, Travel and transportation expenses, Veterans.

Approved: October 15, 2004.

Anthony J. Principi, Secretary of Veterans Affairs.

For the reasons set out in the preamble, 38 CFR part 17 is amended as set forth below:

1. The authority citation for part 17 continues to read as follows:

Authority: 38 U.S.C. 501, 1721, unless otherwise noted.

- 2. Section 17.105 is amended by:
A. In paragraph (a), removing "§ 17.101(a)" and adding, in its place, "§ 17.102".
B. Redesignating paragraph (c) as (d).
C. Adding a new paragraph (c).
D. Adding the OMB information collection approval number parenthetical immediately following paragraph (d).
E. Adding an authority citation at the end of the section.

The additions read as follows:

§ 17.105 Waivers.

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(c) Of charges for copayments. If the debt represents charges for outpatient medical care, inpatient hospital care, medication or extended care services copayments made under §§ 17.108, 17.110 or 17.111 of this chapter, the claimant must request a waiver by submitting VA Form 5655 (Financial Status Report) to a Fiscal Officer at a VA medical facility where all or part of the debt was incurred. The claimant must submit this form within the time period provided in § 1.963(b) of this chapter and may request a hearing under § 1.966(a) of this chapter. The Fiscal Officer may extend the time period for submitting a claim if the Chairperson of the Committee on Waivers and Compromises could do so under § 1.963(b) of this chapter. The Fiscal Officer will apply the standard "equity and good conscience" in accordance with §§ 1.965 and 1.966(a) of this chapter, and may waive all or part of the claimant's debts. A decision by the Fiscal Officer under this provision is final (except that the decision may be reversed or modified based on new and material evidence, fraud, a change in law or interpretation of law, or clear and unmistakable error shown by the evidence in the file at the time of the prior decision as provided in § 1.969 of this chapter) and may be appealed in accordance with 38 CFR parts 19 and 20.

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(The Office of Management and Budget has approved the information collection requirements in this section under control number 2900-0165.)

(Authority: 38 U.S.C. 501, 1721, 1722A, 1724)

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