

the HEOA. That document inadvertently included minor technical errors in the amendments to 34 CFR part 668. This document corrects the final regulations.

**DATES:** August 22, 2011.

**FOR FURTHER INFORMATION CONTACT:**

Marty Guthrie, U.S. Department of Education, 1990 K Street, NW., room 8042, Washington, DC 20006-8502. Telephone: (202) 219-7031 or via the Internet at: [Marty.Guthrie@ed.gov](mailto:Marty.Guthrie@ed.gov).

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

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**SUPPLEMENTARY INFORMATION:** This document corrects minor technical errors included in the final regulations which were published in the **Federal Register** on October 28, 2009 (74 FR 55626).

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**List of Subjects in 34 CFR Part 668**

Administrative practice and procedure, Colleges and universities, Consumer protection, Education, Loan programs—education, Reporting and recordkeeping requirements, Student aid.

Accordingly, 34 CFR part 668 is corrected by making the following correcting amendments:

**PART 668—STUDENT ASSISTANCE GENERAL PROVISIONS**

■ 1. The authority citation for part 668 continues to read as follows:

**Authority:** 20 U.S.C. 1001, 1002, 1003, 1070g, 1085, 1088, 1091, 1092, 1094, 1099c, and 1099c-1, unless otherwise noted.

**§ 668.16 [Corrected]**

■ 2. In § 668.16(m)(2)(iv), add the word “will” after the word “we”.

**§ 668.213 [Corrected]**

■ 3. In § 668.213—

■ A. In paragraph (g)(1), add the words “or of a rate described in paragraph (a)(2) of this section” after the words “you receive the notice of your loss of eligibility”.

■ B. In paragraph (g)(2), add the words “or of a rate described in paragraph (a)(2) of this section” after the words “you receive the notice of your loss of eligibility”.

(Catalog of Federal Domestic Assistance Numbers: 84.032 Federal Family Education Loan Program; 84.038 Federal Perkins Loan Program; 84.268 William D. Ford Federal Direct Loan Program.)

Dated: August 17, 2011.

**Eduardo M. Ochoa,**

*Assistant Secretary for Postsecondary Education.*

[FR Doc. 2011-21356 Filed 8-19-11; 8:45 am]

**BILLING CODE 4000-01-P**

**DEPARTMENT OF VETERANS AFFAIRS**

**38 CFR Part 17**

**RIN 2900-AN85**

**Technical Revisions To Conform to the Caregivers and Veterans Omnibus Health Services Act of 2010**

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Final rule.

**SUMMARY:** This final rule amends Department of Veterans Affairs (VA) medical regulations to incorporate statutory amendments. Certain statutes authorizing VA health care benefits were amended by the Caregivers and Veterans Omnibus Health Services Act of 2010. The statutory amendments affect enrollment in certain health care priority categories and exempt catastrophically disabled veterans from copayment requirements.

**DATES:** *Effective Date:* This final rule is effective August 22, 2011.

**FOR FURTHER INFORMATION CONTACT:**

Roscoe Butler, Deputy Director, Business Policy, Chief Business Office (163), Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 461-1586. (This is not a toll free number).

**SUPPLEMENTARY INFORMATION:** This document amends 38 CFR part 17 to conform certain sections with statutory amendments made by sections 511 through 513 of the Caregivers and Veterans Omnibus Health Services Act of 2010 (the Act), Public Law 163-111. Sections 512 and 513 of the Act amended statutory provisions affecting the enrollment of veterans in the VA health care system. VA's enrollment regulation, 38 CFR 17.36, must be revised accordingly.

First, section 512 of the Act amended 38 U.S.C. 1705(a)(3) to add “veterans who were awarded the [M]edal of [H]onor under [10 U.S.C.] 3741, 6241 or 8741 or [14 U.S.C.] 491” to the list of veterans included in enrollment priority category three. Accordingly, we have revised 38 CFR 17.36(b)(3), our regulation implementing enrollment priority category three, consistent with the amendment of section 1705 .

Second, section 513 of the Act amended 38 U.S.C. 1710(e) to prescribe August 2, 1990, through November 11, 1998, as the specific period of time for enrollment eligibility based on active duty service in the Southwest Asia theater of operations during the Gulf War. Consistent with the statutory amendment, we are amending § 17.36(a)(3) and (b)(6) to include those specific dates.

Third, section 511 of the Act amended title 38, United States Code (U.S.C.), to add section 1730A, which reads as follows: “Notwithstanding subsections (f) and (g) of [38 U.S.C. 1710 and 1722A(a)] or any other provision of law, the Secretary may not require a veteran who is catastrophically disabled, as defined by the Secretary, to make any copayment for the receipt of hospital care or medical services under the laws administered by the Secretary.” In current 38 CFR 17.108(d), VA exempts 10 classes of veterans from the copayment requirements for inpatient hospital care or outpatient medical care. In current 38 CFR 17.110(c), we exempt 8 classes of veterans from copayment requirements for medication. Finally, in current 38 CFR 17.111(f), we exempt 7 classes of veterans from payment requirements for extended care services. Consistent with section 1730A, we are amending each of these regulations to add the new exemption for catastrophically disabled veterans.

Regarding the copayment exemption for extended care services, we note that under section 1730A, VA may exempt copayments for extended care services that are considered hospital care or medical services. In 38 U.S.C. 1701(6)(E), Congress defined “medical services” as including

“[n]oninstitutional extended care services, including alternatives to institutional extended care that the Secretary may furnish directly, by contract, or through provision of case management by another provider or payer.” VA has long defined “noninstitutional” as “a service that does not include an overnight stay.” We assume that Congress was aware of these definitions and intended that we would interpret section 1730A consistent with them. Accordingly, we interpret section 1730A as exempting catastrophically disabled veterans from copayments charged for adult day health care, non-institutional geriatric evaluation, and non-institutional respite care, as described in current 38 CFR 17.111. These are the only extended care services listed in § 17.111 that do not require an overnight stay. Copayments for all other extended care services still apply (including Nursing Home Care).

We note that VA provides a number of additional extended care services not listed in current 38 CFR 17.111. These services include, homemaker/home health aide, purchased skilled home care, home based primary care, and any other noninstitutional alternative extended care services. Despite not being listed under current § 17.111, the copayment exemption will apply to these services because VA considers them “medical services” under the definition in section 1701(6)(E). Catastrophically disabled veterans will be exempt from copayments for such services under new § 17.108(d)(11).

Current § 17.36(e) defines “catastrophically disabled” to mean “a permanent severely disabling injury, disorder, or disease that compromises the ability to carry out the activities of daily living to such a degree that the individual requires personal or mechanical assistance to leave home or bed or requires constant supervision to avoid physical harm to self or others.” This is the only definition of the term in VA’s medical regulations. Although § 17.36(e) applies to enrollment, in section 1730A, Congress prescribed the exemptions for any catastrophically disabled veteran, “as defined by the Secretary.” We interpret section 1730A as requiring application of VA’s current regulation defining the term. We note that there is no legislative history suggesting that Congress intended a different definition of the term for purposes of copayment exemptions. Rather, it is reasonable to conclude that Congress intended to liberalize the benefits for certain veterans enrolled by VA under § 17.36(e). Thus, consistent with our interpretation of section

1730A, we have explicitly incorporated the current definition of “catastrophically disabled” in 38 CFR 17.108(d)(11).

#### **Administrative Procedure Act**

This final rule incorporates statutory provisions or interprets those provisions. Therefore, in accordance with 5 U.S.C. 553(b)(A), the provisions of the Administrative Procedure Act (APA) regarding notice of proposed rulemaking and opportunities for public participation are not applicable. Further, pursuant to section 553(d)(2), this final rule is exempt from the APA’s 30-day delayed effective date requirement.

#### **Executive Order 12866**

Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The Executive Order classifies a regulatory action as a “significant regulatory action,” requiring review by the Office of Management and Budget (OMB) unless OMB waives such review, if it is a regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, or Tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President’s priorities, or the principles set forth in the Executive Order.

The economic, interagency, budgetary, legal, and policy implications of this final rule have been examined and it has been determined not to be a significant regulatory action under Executive Order 12866.

#### **Unfunded Mandates**

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing 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 (adjusted annually for inflation) in any given year. This final rule would have no such effect on state, local, or Tribal governments, or on the private sector.

#### **Paperwork Reduction Act**

This final rule does not contain any collections of information under the Paperwork Reduction Act (44 U.S.C. 3501–3520).

#### **Regulatory Flexibility Act**

The Secretary hereby certifies that this final rule will 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. 601–612. This rule will 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), this rule is exempt from the initial and final regulatory flexibility analysis requirements of §§ 603 and 604.

#### **Catalog of Federal Domestic Assistance Numbers**

The Catalog of Federal Domestic Assistance numbers and titles are 64.009 Veterans Medical Care Benefits, 64.010 Veterans Nursing Home Care, and 64.011 Veterans Dental Care.

#### **Signing Authority**

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. John R. Gingrich, Chief of Staff, Department of Veterans Affairs, approved this document on July 6, 2011, for publication.

#### **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, Government programs-veterans, Health care, Health facilities, Health professions, Health records, Homeless, Medical and dental schools, Medical devices, Medical research, Mental health programs, Nursing home care, Veterans.

Dated: August 16, 2011.

#### **Robert C. McFetridge,**

*Director of Regulation Policy and Management, Office of the General Counsel, Department of Veterans Affairs.*

For the reasons stated in the preamble, the Department of Veterans

Affairs amends 38 CFR part 17 as follows:

### PART 17—MEDICAL

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

**Authority:** 38 U.S.C. 501, and as noted in specific sections.

■ 2. Amend § 17.36 by:

- a. In paragraph (a)(3), removing “, or any” and adding, in its place, “(the period between August 2, 1990, and November 11, 1998), or any”.
- b. In paragraph (b)(3), removing “Purple Heart” and adding, in its place, “Medal of Honor or Purple Heart”.
- c. In paragraph (b)(6), removing “, or for any” and adding, in its place, “(the period between August 2, 1990, and November 11, 1998), or for any”.

■ 3. Amend § 17.108 by:

- a. In paragraphs (d)(1) through (8), removing the semicolons at the end of each paragraph and adding, in each place, a period.
- b. In paragraph (d)(9), removing “; or” at the end of the paragraph and adding, in its place, a period;
- c. Adding paragraph (d)(11).
- d. Revising the authority citation at the end of the section.

The addition and revision read as follows:

#### § 17.108 Copayments for inpatient hospital care and outpatient medical care.

\* \* \* \* \*

(d) \* \* \*

(11) A veteran who VA determines to be catastrophically disabled, as defined in 38 CFR 17.36(e).

\* \* \* \* \*

(Authority: 38 U.S.C. 501, 1710, 1730A)

■ 4. Amend § 17.110 by:

- a. In paragraphs (c)(1) through (6), removing the semicolons at the end of each paragraph and adding, in each place, a period.
- b. In paragraph (c)(7), removing “; and” and adding, in its place, a period.
- c. Adding paragraph (c)(9).
- d. Revising the authority citation at the end of the section.

The addition and revision read as follows:

#### § 17.110 Copayments for medication.

\* \* \* \* \*

(c) \* \* \*

(9) A veteran who VA determines to be catastrophically disabled, as defined in 38 CFR 17.36(e).

(Authority: 38 U.S.C. 501, 1710, 1720D, 1722A, 1730A)

■ 5. Amend § 17.111 by:

- a. In paragraphs (f)(1) through (f)(5), removing the semicolons at the end of

each paragraph and adding, in each place a period.

■ b. In paragraph (f)(6), removing “; or” and adding, in its place, a period.

■ c. Adding paragraph (f)(8).

The addition reads as follows:

#### § 17.111 Copayments for extended care services.

\* \* \* \* \*

(f) \* \* \*

(8) A veteran who VA determines to be catastrophically disabled, as defined in 38 CFR 17.36(e), is exempt from copayments for adult day health care, non-institutional respite care, and non-institutional geriatric care.

\* \* \* \* \*

[FR Doc. 2011–21291 Filed 8–19–11; 8:45 am]

BILLING CODE 8320–01–P

## DEPARTMENT OF VETERANS AFFAIRS

### 38 CFR Part 51

RIN 2900–AN96

#### Expansion of State Home Care for Parents of a Child Who Died While Serving in the Armed Forces

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Final rule.

**SUMMARY:** This document amends Department of Veterans Affairs (VA) regulations concerning the payment of per diem to a State for providing nursing home care to eligible veterans. The amendments remove a restriction on VA’s payment of per diem, which required all non-veteran residents of a State home to be spouses of veterans, or parents of veterans all of whose children died while serving in the Armed Forces of the United States. Under this final rule, non-veteran residents of the State home must be spouses of veterans, or parents of veterans any of whose children died while serving in the Armed Forces.

**DATES:** *Effective Date:* This final rule is effective August 22, 2011.

**FOR FURTHER INFORMATION CONTACT:** Nancy Quest, Chief, State Veterans Home Clinical & Survey Oversight, Geriatrics and Extended Care Services (114), Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 461–6064. (This is not a toll free number.)

**SUPPLEMENTARY INFORMATION:** Under current 38 CFR 51.210(d), VA pays per diem to a State for providing nursing home care to eligible veterans in a State home if, among other things, all non-

veteran residents of the home are spouses of veterans or parents of veterans all of whose children died while serving in the Armed Forces of the United States. In Public Law 111–246, Congress mandated that VA administer § 51.210(d) to permit a State home to provide services to “a non-veteran any of whose children died while serving in the Armed Forces.” This final rule implements Public Law 111–246 by amending § 51.210(d) to incorporate the language mandated by Congress. As amended, § 51.210(d) allows States to admit parents, “any” of whose children died while serving in the Armed Forces, to State homes without affecting VA per diem payments to States for care provided to veterans.

#### Effect of Rulemaking

Title 38, Code of Federal Regulations, as revised by this final rule, represents VA’s implementation of its exclusive legal authority on this subject. Other than future amendments to this regulation or governing statute or public law, no contrary rules or procedures are authorized. All existing or subsequent VA guidance must be read to conform with this rulemaking if possible or, if not possible, such guidance is superseded by this rulemaking.

#### Administrative Procedure Act

These amendments incorporate a specific program requirement mandated by Congress. Accordingly, this rule is exempt from the prior notice-and-comment and delayed-effective-date requirements of 5 U.S.C. 553.

#### Executive Order 12866

Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The Executive Order classifies a regulatory action as a “significant regulatory action,” requiring review by the Office of Management and Budget (OMB) unless OMB waives such review, if it is a regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or