

(iv) If a privately-owned vessel that is docked within the maritime security zone departs the maritime security zone, it will be subject to screening prior to re-entry into the maritime security zone.

(v) All vessels docked within the maritime security zone may remain stationary. Pedestrian screening is not required to access stationary boats within the maritime security zone.

(3) *Security Zone 3*: includes all waters of the Milwaukee River between the North Humboldt Avenue Bridge and the Cherry Street Bridge.

(4) *Security Zone 4*: includes all waters of the Milwaukee River from the confluence with the Menomonee River at 43 01.92' N, 087 54.66' W then north to the Michigan Street Bridge.

(5) *Security Zone 5*: includes all waters of the Milwaukee River from the confluence with the Kinnickinnic River at 43 01.50' N, 087 54.18' W, then northwest to confluence with Menomonee River at 43 01.92' N, 087 54.66' W.

(6) *Security Zone 6*: includes all waters of the Milwaukee River in the vicinity of the Daniel W. Hoan Bridge. The area is enclosed by a line connecting the following points: starting at 43 01.542' N, 087 54.127' W, then east to 43 01.554' N, 087 53.757' W, then south to 43 01.511' N, 087 53.689' W, then west to 43 01.443' N, 087 54.111' W, then north to origin. Vessels greater than or equal to 65 feet are prohibited from entry into, transiting, or anchoring within this security zone unless authorized by the Captain of the Port Lake Michigan or a designated representative. Vessels less than or equal to 64 feet may transit through this security zone but are prohibited from anchoring or loitering; the Captain of the Port Lake Michigan or a designated representative reserves the right to prohibit vessels less than or equal to 64 feet from transiting the security zone as operations dictate.

(7) *Security Zone 7*: includes all waters of the Menomonee River from the confluence with the Milwaukee River at 43 01.92' N, 087 54.66' W, then west to include the following: The Menomonee River to the North Emmer Lane Bridge at 43 01.98' N, 087 55.74' W; The entire South Menomonee Canal ending at 43 01.68' N, 087 55.74' W; and the entire Burnham Canal ending at 43 01.56' N, 087 55.86' W.

(8) *Security Zone 8*: includes all waters of Lake Michigan within Milwaukee Harbor including the Lakeshore State Park Inlet and Discovery World Lagoon. The area is enclosed by a line connecting the following points: Starting at 43 02.276' N, 087 53.705' W, then northeast to 43

02.311' N, 087 53.319' W, then south to 43 01.601' N, 087 53.323' W, then west to 43 01.560' N, 087 53.717' W, then north to origin.

(9) *Security Zone 9*: includes all waters of Lake Michigan within Milwaukee Harbor. The area is enclosed by a line connecting the following points: Starting at 43 01.74' N, 087 53.07' W, then southwest to 43 01.56' N, 087 53.76' W, then southwest to 43 01.23' N, 087 53.86' W, then southeast to 43 00.02' N, 087 53.28' W, then northeast to 43 00.49' N, 087 52.58' W, then northwest to origin.

(10) *Security Zone 10*: includes all waters of the Kinnickinnic River from the confluence with the Milwaukee River at 43 01.50' N, 087 54.18' W then south to the West Becher Street Bridge.

(b) *Enforcement period*. This rule is effective from 8:00 a.m. on July 13, 2024, to 3:00 a.m. on July 19, 2024. The Coast Guard will issue Broadcast Notice to Mariners via VHF-FM marine channel 16 identifying the continuously and intermittently security zone locations, maritime restrictions, and enforcement dates.

(1) Voluntary First Amendment Safety Zone 1 will be enforced intermittently, as necessary from 8 a.m. on July 13, 2024, to 1 a.m. on July 19, 2024.

(2) Security Zone 2 through 10 will be enforced intermittently, as necessary from 8 a.m. on July 13, 2024, to 1 a.m. on July 19, 2024.

(3) Security Zone 2 will be enforced continuously from 8 a.m. on July 14, 2024, through 3 a.m. on July 19, 2024.

(4) Security Zone 6 will be enforced continuously from 3 p.m. on July 14, 2024, through 11:59 p.m. on July 14, 2024.

(5) Security Zone 8 will be enforced continuously from 8 a.m. on July 13, 2024, through 11:59 p.m. on July 14, 2024.

(c) *Regulations*. (1) In accordance with the general regulations in section § 165.33, entry into, transiting, or anchoring within the security zones described in paragraph (a) of this section is prohibited unless authorized by the Captain of the Port Lake Michigan (COTP) or a designated representative.

(2) The security zones are closed to all vessel traffic, except as may be permitted by the COTP or a designated representative.

(3) The "designated representative" of the COTP is any Coast Guard commissioned, warrant, or petty officer who has been designated by the COTP to act on his or her behalf.

(4) Persons and vessel operators desiring to enter or operate within the security zones must contact the COTP or

an on-scene representative to obtain permission to do so. The COTP or an on-scene representative may be contacted via VHF Channel 16. Vessel operators given permission to enter or operate within the security zones must comply with all directions given to them by the COTP or an on-scene representative.

Dated: July 9, 2024.

Joseph B. Parker,

Captain, U.S. Coast Guard, Captain of the Port Lake Michigan.

[FR Doc. 2024-15561 Filed 7-12-24; 4:15 pm]

BILLING CODE 9110-04-P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 38

RIN 2900-AR37

Reconsideration of Prior Interment and Memorialization Decisions

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: The Department of Veterans Affairs (VA) amends its regulations to implement the statute authorizing VA to reconsider a prior decision to inter or honor the memory of a person in a VA national cemetery. As of December 20, 2013, VA was authorized to reconsider a prior decision to inter or memorialize an individual who was convicted of a Federal or State capital crime or a Federal or State crime that caused the individual to be a tier III sex offender for purposes of the Sex Offender Registration and Notification Act. In addition, VA was authorized to reconsider a prior decision to inter or memorialize an individual who committed a Federal or State capital crime but was not convicted of such crime because that individual was not available for trial due to death or flight to avoid prosecution. As of January 5, 2023, VA was authorized to reconsider a prior decision to inter or memorialize an individual who committed a Federal or State crime that would cause the person to be a tier III sex offender but was not convicted of such crime because that individual was not available for trial due to death or flight to avoid prosecution. This rulemaking implements review criteria and procedures for reconsideration of prior interment or memorialization decisions within VA regulations.

DATES: This rule is effective August 16, 2024.

FOR FURTHER INFORMATION CONTACT: Artis Parker, Executive Director, Office

of Field Programs, National Cemetery Administration, Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420. Telephone: (314) 416-6304 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: On February 27, 2023, VA published a proposed rule in the *Federal Register* (88 FR 12296) that would implement review criteria and procedures for reconsideration of prior interment or memorialization decisions. The public comment period ended on April 28, 2023, and VA received 3 comments in response to the proposed rule. VA will make no changes to the rulemaking based on the comments received on the proposed rule.

However, VA is making changes to the regulatory text to conform to new statutory authority. Specifically, VA revises paragraphs (c) and (d) in 38 CFR 38.622 to reflect changes to 38 U.S.C. 2411 made by section 6 of Public Law 117-355. The update in the statute, along with the corresponding changes in the regulatory text, allows VA to reconsider interment or memorialization of an individual who committed a Federal or State crime that would cause the person to be a tier III sex offender but was not convicted of such crime due to death or flight to avoid prosecution. We are revising the heading of proposed § 38.622(c) from “Avoidance of Capital Crime Conviction Due to Death or Flight” to “Avoidance of Conviction Due to Death or Flight” and revising proposed paragraphs (c)(1), (c)(2), (d)(2), and (d)(2)(iii) to include a person who committed or may have committed (depending on the paragraph) “a Federal or State crime that would cause the person to be a tier III sex offender under 38 U.S.C. 2411(b)(5)”. These revisions are a logical outgrowth of the proposed rule and do not change the procedure for reconsideration cases set out in the proposed rule. Rather, the revisions merely incorporate Congress’s amendments to the statute in adding the additional class of cases subject to reconsideration. Therefore, an additional opportunity for notice and public comment before promulgating this final rule is not necessary. See *Veterans Justice Grp. v. Sec’y of Veterans Affs.*, 818 F.3d 1336, 1343–45 (Fed. Cir. 2016) (holding that additional notice and opportunity for comment were not required where modifications contained in a final rule were a logical outgrowth of the proposed rule).

Additionally, VA is revising the regulatory text to clarify the proper regulations governing appeals to the Board of Veterans’ Appeals and to

emphasize the restrictions for appeal under the statute. In § 38.622(d)(1) and (d)(2)(iii), we change references to 38 CFR 19.25 (which governs decisions issued prior to February 19, 2019), see Veterans Appeals Improvement and Modernization Act of 2017 (AMA), Public Law 115-55, to 38 CFR 20.200 (which governs post-AMA decisions). Similarly, in § 38.622(d)(3), we change the reference to part 19, which governs the legacy appeals system, to part 20, which governs post-AMA appeals. As of the date of publication of this final rule, all pending reconsideration cases involve reconsideration decisions made after February 19, 2019, the effective date of the AMA. Therefore, VA expects that the Board of Veterans’ Appeals will adjudicate any appeals of reconsiderations under the AMA regulations, rather than the legacy appeals regulations.

VA revises proposed paragraph (d)(3) to clarify the unique restrictions on appeals imposed by 38 U.S.C. 2411(d)(3). Specifically, VA adds language to emphasize that the notice of disagreement must be filed within 60 days from the date of the notice of decision and that the only available method of appeal from a notice of decision issued by the Under Secretary for Memorial Affairs is through review by the Board of Veterans’ Appeals. The clear language of sec. 2411(d)(3)(A) imposes the 60-day deadline “[n]otwithstanding any other provision of law.” VA is removing language in proposed § 38.622(d)(1) and (d)(2)(iii) regarding the 60-day deadline, as that information now appears in paragraph (d)(3). Additionally, sec. 2411(d)(3) only allows appeals through the filing of a notice of disagreement to initiate review by the Board of Veterans’ Appeals “in accordance with the provisions of chapter 71.” The language of sec. 2411(d)(3) predates the 2017 enactment of the AMA, which generally expanded the range of appeal options for VA benefit decisions. However, Congress has not amended the restrictive language of sec. 2411(d)(3), which only allows individuals to appeal to the Board of Veterans’ Appeals by filing a notice of disagreement.

Regarding the comments received in response to the proposed rule, one commenter mentioned supporting reconsideration of interment or memorialization if proven beyond a reasonable doubt that an individual committed a Federal or State capital crime or committed a Federal or State crime that would have caused the person to be a tier III sex offender, whether the individual was convicted or not. As stated in the proposed rule,

application of the reconsideration authority to bar benefits is based on 38 U.S.C. 2411(d) and (e). Under 38 U.S.C. 2411(d)(2)(A)(i), if there is evidence of a final conviction, then the bar to burial and memorial benefits would apply. When reconsidering whether to apply the bar to benefits in cases where the decedent committed a Federal or State capital crime or a Federal or State crime that would cause the person to be a tier III sex offender but was not convicted of such crime due to death or flight, VA has no authority to apply a standard other than the “clear and convincing evidence” standard, as is required under § 2411(d)(2)(A)(ii). VA will make no changes based on this comment.

The same commenter also expressed support for the intent of the proposed rule to preserve the legacy of veterans and their families by reconsidering interment or memorialization of an individual who committed a Federal or State capital crime or committed a Federal or State crime that would have caused the person to be a tier III sex offender but was not convicted of such crime due to death or flight to avoid prosecution. VA appreciates the commenter’s support and feedback but will make no changes to the regulatory text based on this comment.

Another commenter expressed concerns regarding whether families would be able to afford the cost burden of disinterment and whether the cost would cause undue harm. The commenter suggested an alternative approach for VA to pay costs associated with the reinterment of remains unless the next of kin makes their own arrangements for disposition at their expense. As explained in the proposed rule, VA will provide notice to families about a proposed disinterment or removal of a headstone or marker, prior to taking such actions. The notice provides two options. While not required to do so, a family may choose to claim their loved one’s remains and determine the final resting place and manner in which to memorialize their loved one at the family’s expense. If a decedent’s family does not make arrangements to take possession of the remains, VA will arrange for the disinterment at the Government’s expense. VA will determine a suitable cemetery for the disposition of the decedent’s remains and will make all necessary arrangements to disinter, transport, reinter, and mark the decedent’s grave with a non-Government headstone or marker. VA will notify the decedent’s family once these steps are completed. Because VA will provide an option that alleviates families of the financial burden

associated with disinterment or removal of a headstone or marker, VA will make no changes based on the commenter's expressed concerns.

Finally, VA addresses a comment that contended the Sex Offender Registration and Notification Act (SORNA) is unconstitutional and violates Article III of the United States Constitution, because the requirement to register as a sex offender constitutes a reopening of final judgments entered before the enactment of the SORNA. VA respectfully disagrees with the commenter because the reconsideration authority under sec. 2411 only affects VA's prior adjudication of an interment or memorialization claim and is not a reopening of the decedent's criminal case, as the commenter suggests. As explained in the proposed rule, sec. 2411 requires VA to consider a court's final conviction for Federal or State sex offenses and if that results in VA's finding that the individual meets the criteria to be categorized as a tier III sex offender under the SORNA, we must impose the bar to interment or memorialization in a national cemetery. The reconsideration authority is predicated on this analysis, which only draws on information about a person's criminal convictions but does not impose further criminal penalties. The bar to benefits under sec. 2411 is not a criminal penalty because it only affects a person's ability to receive otherwise entitled benefits based on qualifying military service. Further, we clarify that the reconsideration authority applies to individuals interred or memorialized after December 20, 2013, see Public Law 113–65, sec. 2, and is unrelated to the enactment of the SORNA in 2006. We considered this commenter's analysis but will make no changes to the rulemaking.

We make some clarifying revisions to § 38.622(b)(1) and (b)(2) by revising the proposed reference to “a Federal or State tier III sex offense” to more accurately refer to “a Federal or State crime causing the person to be a tier III sex offender”. We similarly revise § 38.622(d)(1) by changing the reference to “a tier III sexual offense” to “a Federal or State crime that would cause the person to be a tier III sex offender under 38 U.S.C. 2411(b)(5)”. As discussed above, VA is not making any changes to the rulemaking based on the comments received on the proposed rule but is making some changes to implement recent statutory amendments.

Executive Orders 12866, 13563 and 14094

Executive Order 12866 (Regulatory Planning and Review) directs agencies to assess the 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 effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 14094 (Modernizing Regulatory Review) supplements and reaffirms the principles, structures, and definitions governing contemporary regulatory review established in Executive Orders 12866 and 13563. The Office of Information and Regulatory Affairs has determined that this rulemaking is not a significant regulatory action under Executive Order 12866, as amended by Executive Order 14094. The Regulatory Impact Analysis associated with this rulemaking can be found as a supporting document at www.regulations.gov.

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, because the number of claims and the amounts involved are expected to be small. This final rule will directly affect the individuals and establishments that may be involved with the transfer of remains process (e.g., next of kin or personal representative of the decedent and funeral homes). However, based on the anticipated aggregate number of cases involving disinterment or removal of memorialization headstones or markers, this final rule will not impact a substantial number of small entities. Since the 2013 enactment of the reconsideration authority in 38 U.S.C. 2411, VA has only reviewed 7 reconsideration decisions in total. Therefore, pursuant to 5 U.S.C. 605(b), the initial and final regulatory flexibility analysis requirements of sections 603 and 604 do not apply.

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 the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more (adjusted annually for inflation) in any one year. This final rule will have no such effect on State, local, and tribal governments, or on the private sector.

Paperwork Reduction Act

This final rule contains no provisions constituting a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521).

Congressional Review Act

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).

List of Subjects in 38 CFR Part 38

Administrative practice and procedure, Cemeteries, Claims, Crime, Grants programs—veterans, Veterans.

Signing Authority

Denis McDonough, Secretary of Veterans Affairs, approved and signed this document on July 3, 2024, 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.

Luvenia Potts,

Regulation Development Coordinator, Office of Regulation Policy & Management, Office of General Counsel, Department of Veterans Affairs.

For the reasons stated in the preamble, the Department of Veterans Affairs amends 38 CFR part 38 as set forth below:

PART 38—NATIONAL CEMETERIES OF THE DEPARTMENT OF VETERANS AFFAIRS

- 1. The authority citation for part 38 continues to read as follows:

Authority: 38 U.S.C. 107, 501, 512, 2306, 2400, 2402, 2403, 2404, 2407, 2408, 2411, 7105.

- 2. Add § 38.622 to read as follows:

§ 38.622 Reconsideration of prior interment and memorialization decisions.

(a) *General.* (1) The Under Secretary for Memorial Affairs (USMA) is the appropriate Federal official who may reconsider a prior decision to inter the remains or honor the memory of a person in a national cemetery.

(2) This section sets out the evaluative criteria and procedures for VA to reconsider prior interment and memorialization decisions for decedents

who are subsequently found to have committed or to have been convicted of certain criminal acts that would prohibit them from receiving benefits to which they are otherwise entitled.

(b) *Capital Crime or Sex Offense Conviction.* (1) Upon written notification from the United States Attorney General or an appropriate State official that a person interred or memorialized in a national cemetery after December 20, 2013, was convicted of a Federal or State capital crime and whose conviction meets the requirements of 38 U.S.C. 2411(b)(1) or (2), respectively, or was convicted of a Federal or State crime causing the person to be a tier III sex offender and meets the requirements of 38 U.S.C. 2411(b)(4), the USMA may, upon reconsideration, decide to disinter the remains or remove the memorial headstone or marker of such person from the cemetery.

(2) If VA has not initially received notification referred to in paragraph (b)(1) of this section, but a cemetery director has reason to believe that a person interred or memorialized in a national cemetery after December 20, 2013, may have been convicted of a Federal or State capital crime meeting the requirements of 38 U.S.C. 2411(b)(1) or (2), respectively, or may have been convicted of a Federal or State crime causing the person to be a tier III sex offender and meets the requirements of 38 U.S.C. 2411(b)(4), the cemetery director will initiate an inquiry to the United States Attorney General or appropriate State official for confirmation and provide the results of such inquiry to the USMA in cases where a conviction is confirmed, which will initiate a reconsideration. The USMA will render a decision on disinterment or memorial headstone or marker removal after reviewing the results of the inquiry submitted by the cemetery director.

(c) *Avoidance of Conviction Due to Death or Flight.* (1) If a cemetery director has reason to believe that a person interred or memorialized in a national cemetery after December 20, 2013, may have committed a Federal or State capital crime or may have committed a Federal or State crime that would cause the person to be a tier III sex offender under 38 U.S.C. 2411(b)(5), but avoided conviction of such crime by reason of unavailability for trial due to death or flight to avoid prosecution, the cemetery director will initiate an official inquiry seeking information from Federal, State, or local law enforcement officials, or other sources of potentially relevant information.

(2) If, after conducting the inquiry, the cemetery director determines that there appears to be clear and convincing evidence that the decedent committed a Federal or State capital crime or committed a Federal or State crime that would cause the person to be a tier III sex offender under 38 U.S.C. 2411(b)(5), for which the decedent was not convicted because the decedent was unavailable for trial due to death or flight to avoid prosecution, the cemetery director will provide this information to the USMA who will decide whether to reconsider the prior decision to inter or memorialize the decedent. If the USMA decides to reconsider the prior interment or memorialization decision, the USMA will provide notice of procedural options and follow the procedures in paragraph (d)(2).

(d) *VA Notice of Decision.* (1) For cases involving a conviction of a Federal or State capital crime or conviction of a Federal or State crime that would cause the person to be a tier III sex offender under 38 U.S.C. 2411(b)(5), where the USMA decides to disinter or remove a memorial headstone or marker, NCA will provide written notice of that decision to the decedent's next of kin or personal representative. The written notice of decision will be in accordance with 38 U.S.C. 5104 and will include a notice of appellate rights in accordance with 38 CFR 20.200.

(2) In cases in which a cemetery director has reason to believe that a person interred or memorialized in a national cemetery after December 20, 2013, may have committed a Federal or State capital crime, as described in 38 U.S.C. 2411(f)(1) and (2), or may have committed a Federal or State crime that would cause the person to be a tier III sex offender under U.S.C. 2411(b)(5), but avoided conviction of such crime by reason of unavailability for trial due to death or flight to avoid prosecution, should the USMA decide to reconsider the prior interment or memorialization, prior to rendering written notice of final decision, VA will follow the following process:

(i) NCA will provide a notice of procedural options, which will inform the decedent's next of kin or personal representative that VA is reconsidering the prior interment or memorialization of the decedent and that they may, within 15 days of receipt of notice: request a hearing on the matter; submit a written statement, with or without supporting documentation, for inclusion in the record; or waive a hearing and submission of a written statement.

(ii) If a hearing is requested, the District Executive Director will conduct the hearing. The purpose of the hearing

is to permit the personal representative of the deceased to present evidence concerning whether the deceased committed a crime that would render the deceased ineligible for interment or memorialization in a national cemetery. Testimony at the hearing will be presented under oath, and the personal representative will have the right to representation by counsel and the right to call witnesses. The VA official conducting the hearing will have the authority to administer oaths. The hearing will be conducted in an informal manner and court rules of evidence will not apply. The hearing will be recorded on audiotape and, unless the personal representative waives transcription, a transcript of the hearing will be produced and included in the record.

(iii) Following a hearing or the timely submission of a written statement, or in the event a hearing is waived or no hearing is requested and no written statement is submitted within the time specified, the USMA will decide whether there is clear and convincing evidence that the decedent committed a Federal or State capital crime or a Federal or State crime that would cause the person to be a tier III sex offender under 38 U.S.C. 2411(b)(5), for which the decedent was not convicted due to the decedent's unavailability for trial due to death or flight to avoid prosecution. If the USMA decides that clear and convincing evidence does not exist, the USMA will notify the next of kin or personal representative that the decedent may remain interred or that the decedent's memorial headstone or marker may remain in the national cemetery. If the USMA decides that clear and convincing evidence exists, the USMA will provide written notice of the decision to disinter the decedent or remove the decedent's memorial headstone or marker. The written notice of decision will be in accordance with 38 U.S.C. 5104 and will include a notice of appellate rights in accordance with 38 CFR 20.200.

(3) Notwithstanding any other provision of this chapter, a notice of disagreement with the decision of the USMA must be filed within 60 days from the date of the notice of decision, and the only method of appeal from a notice of decision issued under this section is through review by the Board of Veterans' Appeals. Action following receipt of a notice of disagreement with reversal of an interment or memorialization decision under this section will be in accordance with 38 CFR part 20.

(e) *Disinterment or removal of memorialization.* A decision to disinter

the remains or remove a memorial headstone or marker becomes final either by failure of the next of kin or personal representative to appeal the decision or by final disposition of the appeal. In such cases, the cemetery director shall take the following actions:

(1) In the case of disinterment, the cemetery director will contact the next of kin or personal representative to coordinate the transfer of remains from the national cemetery to another location. The next of kin or personal representative will have 30 days to respond to the cemetery director.

(i) If the next of kin or personal representative responds to the notice within the 30-day period, the cemetery director will coordinate a date and time for the disinterment and release of the decedent's remains to the next of kin or personal representative for transport from the national cemetery to a place determined by the next of kin or personal representative. The cemetery director will perform the disinterment. The next of kin or personal representative will bear responsibility and cost for transportation of the remains from the cemetery, including compliance with applicable state laws concerning the disinterment and transport of remains from the national cemetery, and any costs associated with the subsequent disposition of remains.

(ii) If the next of kin or personal representative does not respond to the notice within the 30-day period, indicates refusal to accept the decedent's remains, or fails to appear, the cemetery director will determine a suitable cemetery for the disposition of the decedent's remains and, at government expense, will make all necessary arrangements to disinter, transport, reinter, and mark the grave of the decedent with a non-government headstone or marker within a reasonable time frame. The non-government headstone or marker will include the decedent's name, date of birth, and date of death. The cemetery director will then notify the next of kin or personal representative of the date and time on which the disinterment was performed and the new location of the decedent's remains.

(2) In the case of a memorial headstone or marker, the cemetery director will remove the headstone or marker from the cemetery and notify the next of kin or personal representative of the date on which this action was taken.

(Authority: 38 U.S.C. 512, 2411)

[FR Doc. 2024-15532 Filed 7-16-24; 8:45 am]

BILLING CODE 8320-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Part 414

[CMS-5541-N]

Medicare Program; Alternative Payment Model (APM) Incentive Payment Advisory for Clinicians—Request for Current Billing Information for Qualifying APM Participants

AGENCY: Centers for Medicare & Medicaid Services (CMS), Health and Human Services (HHS).

ACTION: Payment advisory.

SUMMARY: This advisory is to alert certain clinicians who are Qualifying APM participants (QPs) and have earned an Alternative Payment Model (APM) Incentive Payment that CMS does not have the current information needed to disburse the payment. This advisory provides information to QPs on how to update their Medicare billing information so that CMS can disburse APM Incentive Payments.

DATES: July 17, 2024.

FOR FURTHER INFORMATION CONTACT: Tanya Dorm, (410) 786-2216.

SUPPLEMENTARY INFORMATION:

I. Background

Under the Medicare Quality Payment Program, an eligible clinician who participates in an Advanced Alternative Payment Model (APM) and meets or exceeds the applicable payment amount or patient count thresholds for a performance period is a Qualifying APM Participant (QP) for that year. For payment years 2020 through 2026, which respectively correspond to the QP Performance Periods for 2018 through 2023, an eligible clinician who attains QP status for a year earns a lump sum APM Incentive Payment that is paid in the payment year. For payment years 2020 through 2024, the amount of the APM Incentive Payment is equal to 5 percent of the estimated aggregate paid amounts for covered professional services furnished by the QP during the calendar year immediately preceding the payment year.

II. Provisions of the Advisory

The Centers for Medicare & Medicaid Services (CMS) has identified those eligible clinicians who attained QP status in the 2022 performance period and earned a 5 percent APM Incentive Payment for the 2024 payment year based on aggregate paid amounts for the

covered professional services they furnished in the CY 2023 base period.

When CMS processed the 2024 APM Incentive Payments, CMS was unable to identify a Taxpayer Identification Number (TIN) or TINs associated with some QPs, and was therefore unable to disburse the payment. To successfully issue the APM Incentive Payment for the 2024 payment year, CMS is requesting assistance identifying current Medicare billing information for these QPs in accordance with 42 CFR 414.1450(c)(8).

CMS has compiled a list of QPs for whom we were unable to identify any associated TIN to which we can make the APM Incentive Payment. These QPs, and any others who anticipated receiving an APM Incentive Payment but have not, should follow the instructions to provide CMS with updated Medicare billing information at the following web address: <https://qpp-cm-prod-content.s3.amazonaws.com/uploads/2924/2024-QP-Notice-for-APM-Incentive-Payment.zip>.

If you have any questions concerning submission of information through the QPP website, please contact the Quality Payment Program Help Desk at 1-866-288-8292.

All information must be received by September 1, 2024. After that date, any claim to an APM Incentive Payment for the 2024 payment period based on an eligible clinician's QP status for the 2022 QP Performance Period will be forfeited. To facilitate payment, please include all required documentation as specified in the previous link. If CMS is still unable to process the APM Incentive Payment based on the Medicare billing information received in response to this advisory, the submitter will not be notified.

CMS will hold all timely submitted information and process the remaining 2024 APM Incentive Payments simultaneously as soon as possible after the deadline. It may take up to 3 months to complete the validation and verification process before these APM Incentive Payments are disbursed.

III. Collection of Information Requirements

This advisory is intended to alert certain QPs that CMS is requesting assistance identifying current Medicare billing information so that we can disburse APM Incentive Payments. This request for follow-up information is exempt from the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) as specified under implementing regulation 5 CFR 1320.3(h)(9) with regard to the clarification of responses.