

Standards Administration, U.S. Department of Labor, Room S-3510, 200 Constitution Avenue NW., Washington, DC 20210. Telephone (202) 219-7640. This is not a toll free number.

SUPPLEMENTARY INFORMATION:

I. Paperwork Reduction Act

This rule imposes no reporting or recordkeeping requirements on the public.

II. Background

Employers who violate any of the provisions of the Employee Polygraph Protection Act (EPPA) may be assessed civil money penalties up to \$10,000. Under § 801.53, any person desiring to request an administrative hearing on a civil money penalty assessment must do so in writing within 30 days after the date of receipt of the notice. Additionally, § 801.53 specifies that the written hearing request shall be made to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor.

This revision is being made in order to streamline the process by which hearing requests are acknowledged by consolidating all aspects of processing hearing requests into the operations of the office which issued the administrative determination upon which the request for a hearing is based. Accordingly, all such hearing requests are now to be made to the Wage and Hour official that issued the determination in care of the address of the office that originated the determination.

III. Summary of Rule

Section 801.53 of Regulations, 29 CFR part 801, is amended to provide for a new address for purposes of requesting administrative hearings. Hearing requests are now directed to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor. Under the amended regulation, these requests will be directed to the Wage and Hour Division official who issued the determination, at the address appearing on the determination notice.

Executive Order 12868/Section 202 of the Unfunded Mandates Reform Act of 1995

This rule is not a "significant regulatory action" within the meaning of Executive Order 12866, nor does it require a section 202 statement under the Unfunded Mandates Reform Act of 1995. The rule merely adopts a technical address change, which will facilitate the timeliness and handling of

the hearing process. Accordingly, these changes are not expected 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 Executive Order 12866. Therefore, no regulatory impact analysis has been prepared.

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required for the rule under 5 U.S.C. 553(b), the requirements of the Regulatory Flexibility Act, Pub. L. 96-354, 94 Stat. 1165, 5 U.S.C. 601 et seq. pertaining to regulatory flexibility analysis, do not apply to this rule. See 5 U.S.C. 601(2). The rule simplifies the handling of hearing requests and will not have a significant economic impact on a substantial number of small entities.

Administrative Procedure Act

This regulation is procedural in nature. Accordingly, the Secretary, for good cause, finds pursuant to 5 U.S.C. 553(b)(3), that prior notice and public comment are unnecessary, impracticable, and contrary to the public interest.

The Secretary also for good cause finds, pursuant to 5 U.S.C. 553(d)(3), that this rule should take effect immediately because it is merely a technical procedural change which does not affect any substantive rights.

Document Preparation

This document was prepared under the direction and control of Maria Echaveste, Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor.

List of Subjects in 29 CFR Part 801

Employment, Investigations, Labor, Law enforcement, Penalties.

For the reasons set forth above, 29 CFR part 801 is amended as set forth below.

Signed at Washington, DC, on this 31st day of August 1995.

Maria Echaveste,

Administrator, Wage and Hour Division.

PART 801—[AMENDED]

1. The authority citation for part 801 continues to read as follows:

Authority: Pub. L. 100-347, 102 Stat. 646, 29 U.S.C. 2001-2009.

2. Paragraph (a) of § 801.53 is revised to read as follows:

§ 801.53 Request for hearing.

(a) Any person desiring to request an administrative hearing on a civil money penalty assessment pursuant to this part shall make such request in writing to the official who issued the determination at the Wage and Hour Division address appearing on the determination notice, no later than 30 days after the date of receipt of the notice referred to in § 801.51 of this part.

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[FR Doc. 95-22140 Filed 9-6-95; 8:45 am]

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DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 3

RIN 2900-AG85

Evidence Requirements

AGENCY: Department of Veterans Affairs.
ACTION: Final rule.

SUMMARY: This document adopts as a final rule, without change, an interim rule that amends Department of Veterans Affairs (VA) adjudication regulations concerning the evidence required to establish birth, death, marriage, or relationship. This amendment was necessary to expedite the payment of benefits by allowing VA to accept photocopies of documents necessary to establish birth, death, marriage, or relationship. The intended effect of this amendment is to improve the efficiency and timeliness of claims processing.

EFFECTIVE DATE: This document is effective September 7, 1995 (The interim rule was effective September 8, 1994).

FOR FURTHER INFORMATION CONTACT: Steven Thornberry, Consultant, Regulations Staff, Compensation and Pension Service, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, telephone (202) 273-7210.

SUPPLEMENTARY INFORMATION: On September 8, 1994, VA published in the **Federal Register** an interim rule with request for comments (59 FR 46337). The rule revised VA regulations concerning evidence requirements to permit claimants to use uncertified photocopies of documents to establish birth, death, marriage, and relationship. Previous regulations required that a copy of a document be certified over the signature and official seal of the custodian of the record. We requested that comments to the interim rule be submitted on or before November 7, 1994. We received 11 comments, most from officials of state agencies charged with maintaining and issuing vital records.

The commenters were unanimous in their opinion that by accepting photocopies VA increases the likelihood that it will erroneously award benefits based on altered documents.

We currently have adequate safeguards against erroneously awarding benefits on the basis of altered photocopies. Under 38 CFR 3.216, we require all compensation, pension, or dependency and indemnity compensation recipients or claimants to furnish VA the social security numbers of all dependents on whose behalf benefits are claimed or received. Under the authority of 38 U.S.C. 5317, VA may exchange data with other federal agencies to verify information from VA beneficiaries concerning family members and family income. As an additional safeguard, we have retained in this rule the right to request a certified copy of a document if we are not satisfied that the photocopy submitted is genuine or unaltered. In light of these safeguards, we can, in our judgment, accept uncertified copies without compromising the integrity of our benefit programs.

Several commenters saw no need for VA to accept uncertified copies as a measure to expedite claims processing. Six of these remarked that it is generally not difficult to obtain certified copies, and 8 stated that many states provide copies free of charge if they are to be used to pursue a claim for VA benefits.

Our experience shows that VA's former requirement for certified copies did delay claims processing. Claimants spent additional time trying to satisfy that requirement, partly because many did not understand what VA meant by a certified copy or how to obtain one, especially from a state other than where they live. We realize that some states do provide VA claimants certified copies at no cost. However, if claimants are unaware that certified copies for VA claims are free or fail to indicate that the

copies are needed to obtain VA benefits, they may be charged. VA claimants should not incur the delay, expense, or inconvenience of obtaining certified copies of documents if uncertified photocopies will satisfy VA's needs.

Four commenters remarked that, inasmuch as some states have laws that prohibit copying certified copies of vital records, VA's acceptance of uncertified copies could encourage claimants to violate state laws.

This rule does not require that claimants submit photocopies of vital records. It merely provides that option to simplify the proof of claims. Responsibility for obeying state laws lies with the persons subject to those laws. In any event, the fact that some states prohibit copying certified copies is no reason to hold all claimants to higher evidentiary standards.

One commenter suggested that VA request certified copies, photocopy them for the claimants' records, and return them to the claimants, since claimants must have a certified copy to photocopy in the first place.

Many claimants submit original documents in conjunction with benefit claims, which we routinely return after making copies for our records. If a claimant submits a certified copy and requests its return after we have copied it for our records, we honor that request. However, the claimant still has the responsibility of submitting an original document or a certified copy, and, consequently, the procedure does nothing to expedite claims processing. Furthermore, under this procedure, the original document or the certified copy might be lost in the mail and have to be replaced. Under this new rule, the claimant could keep the original or certified copy and submit a photocopy to VA.

One commenter suggested that, if VA's main concern is improving public service without regard to cost, VA eliminate the requirement for any form of documentation other than a signature on a claims form.

In fact, section 301(a) of the "Veterans' Benefits Improvements Act of 1994," Public Law 103-446, approved November 2, 1994, authorizes VA to accept the written statement of a claimant as proof of marriage, dissolution of a marriage, birth of a child, and death of any family member. The statute further provides that VA may require documentation in certain situations. This law was enacted after publication of our interim rule on evidence requirements. Whether VA should accept claimants' statements as proof of relationships is a separate issue

that we may address in future rulemaking.

Three commenters expressed concerns that the members of the Blue Ribbon Panel on Claims Processing (the Panel), which made the recommendation implemented by this rulemaking, had little operational experience dealing with vital records. The commenters felt that the Panel would have benefited from the advice and recommendations of other federal agencies that use vital records or of members of the Association for Vital Records and Health Statistics (AVRHS), who are the primary keepers of vital records.

The mandate of the Panel was to develop recommendations to shorten the time it takes VA to make decisions on disability claims and reduce the backlog of claims, which had reached critical levels at many regional offices. Accordingly, the Panel's membership comprised VA officials and representatives from veterans' service organizations with extensive knowledge of VA claims adjudication. The Panel made 43 recommendations covering a broad spectrum of claims-processing procedures, including measures to expedite development of evidence needed for the adjudication of pending claims. The Panel neither included anyone with expertise in vital records nor sought the advice of such experts, but we are unaware of how such expertise would have helped the Panel to develop recommendations to shorten VA's claims processing time and to reduce the claims backlog. Furthermore, although the Panel did not seek advice from vital-records experts, the comment period provided by the interim rule that implemented the Panel's recommendation gave the opportunity for such input.

One commenter stated that many state and county Vital Records offices rely on the revenue obtained from issuing certified copies. Wide-spread acceptance of uncertified photocopies would decrease this revenue and possibly force some of these self-supporting offices to increase the price of certified copies.

Although we understand the commenter's concerns, the purpose of this rule is to improve the efficiency and timeliness of processing claims for VA benefits. We find that the possible decrease in vital records offices' revenue does not warrant imposing on claimants more stringent evidence requirements than are necessary, in our judgment, to establish entitlement.

VA appreciates the interest of the commenters and thanks them for their thoughtful remarks. We are here

affirming as a final rule, without change, the interim rule published at 59 FR 46337.

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 final rule would not directly affect small entities. Only VA beneficiaries could be directly affected. Therefore, pursuant to 5 U.S.C. 605 (b), this final rule is exempt from the initial and final regulatory flexibility analysis requirements of §§ 603 and 604.

(The Catalog of Federal Domestic Assistance program numbers are 64.104, 64.105, 64.109, and 64.110).

List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Health care, Individuals with disabilities, Pensions, Veterans.

The interim rule published September 8, 1994, in the **Federal Register** (59 FR 46337) amending 38 CFR part 3 is adopted as final without change.

Approved: August 28, 1995.

Jesse Brown,

Secretary of Veterans Affairs.

[FR Doc. 95-22128 Filed 9-6-95; 8:45 am]

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DEPARTMENT OF DEFENSE

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 21

RIN 2900-AG98

Veterans Education: Increases in Rates Payable in the Educational Assistance Test Program

AGENCY: Department of Defense and Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: The law provides that rates of subsistence allowance and educational assistance payable under the Educational Assistance Test Program shall be adjusted annually by the Secretary of Defense based upon the average actual cost of attendance at public institutions of higher education in the twelve-month period since the rates were last adjusted. After consultation with the Department of Education, the Department of Defense has concluded that the rates for the 1991-92 academic year should be increased by 6% over the rates payable for the 1990-91 academic year; the rates for the 1992-93 academic year should

be increased by 8% over the rates payable for the 1991-92 academic year; the rates for the 1993-94 academic year should be increased by 7% over the rates payable for the 1992-93 academic year; and the rates for the 1994-95 academic year should be increased by 8% over the rates payable for the 1993-94 academic year. The regulations dealing with these rates are amended accordingly.

EFFECTIVE DATE: September 7, 1995.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer, Assistant Director for Policy and Program Administration, Education Service, Veterans Benefits Administration, 202-273-7187.

SUPPLEMENTARY INFORMATION: The law (10 U.S.C. 2145) provides that the Secretary of Defense shall adjust the amount of educational assistance which may be provided in any academic year under the Educational Assistance Test Program, and the amount of subsistence allowance authorized under that program. The adjustment is to be based upon the twelve-month increase in the average actual cost of attendance at public institutions of higher education. As required by law, the Department of Defense has consulted with the Department of Education. The Department of Defense has concluded that these costs increased by 6% in the 1990-91 academic year, by 8% in the 1991-92 academic year, by 7% in the 1992-93 academic year, and by 8% in the 1993-94 academic year. Accordingly, this revision changes 38 CFR 21.5820 and 21.5822 to reflect each increase in the rates payable in the subsequent academic year.

Administrative Procedure Act

Pursuant to 5 U.S.C. 553 there is good cause for finding that notice and public procedure are impractical, unnecessary, and contrary to the public interest and there is good cause for dispensing with a 30 day delay of the effective date. The rates of subsistence allowance and educational assistance payable under the Educational Assistance Test program are determined based on a statutory formula and, in essence, the calculation of rates merely constitute a non discretionary ministerial act.

The Secretary of Veterans Affairs and the Secretary of Defense have certified that these amended regulations, if promulgated, will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601-612. Pursuant to the 5 U.S.C. 605(b), the amended regulations, therefore, are exempt from the initial and final regulatory flexibility

analyses requirements of sections 603 and 604.

This certification can be made because the amended regulations directly affect only individuals. They will have no significant economic impact on small entities, i.e., small businesses, small private and nonprofit organizations and small governmental jurisdictions.

There is no Catalog of Federal Domestic Assistance number for the program affected by these regulations.

List of Subjects in 38 CFR Part 21

Civil rights, claims, Education, Grant programs-education, Loan programs-education, Reporting and record keeping requirements, Schools, Veterans, Vocational education, Vocational rehabilitation.

Approved: December 27, 1994.

Jesse Brown,

Secretary of Veterans Affairs.

Approved: August 28, 1995.

Samuel E. Ebbesen,

Lieutenant General, USA, Deputy Assistant Secretary (Military Personnel Policy), Department of Defense.

For the reasons set out in the preamble, 38 CFR part 21, subpart H is amended as set forth below.

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

Subpart H—Educational Assistance Test Program

1. The authority citation for part 21, subpart H continues to read as follows:

Authority: 10 U.S.C. Ch. 107, Pub. L. 96-342.

2. In § 21.5820, paragraph (b) is revised to read as follows:

§ 21.5820 Educational assistance.

* * * * *

(b) *Amount of educational assistance.*

(1) The amount of educational assistance shall be adjusted annually by regulation.

(i) For the 1991-92 standard academic year the amount of this assistance may not exceed \$2,087.

(ii) For the 1992-93 standard academic year the amount of this assistance may not exceed \$2,254.

(iii) For the 1993-94 standard academic year the amount of this assistance may not exceed \$2,412.

(iv) For the 1994-95 standard academic year the amount of this assistance may not exceed \$2,605.

(2) The amount of educational assistance payable to a servicemember, veteran, spouse or dependent child of a living servicemember or veteran for an