Estimated Annual Burden: 11,754 hours.

Estimated Average Burden Per Respondent: 10 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 70,522.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form should be directed to Department of Veterans Affairs, Attn: Jacquie McCray Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, telephone (202) 565-8266 or FAX (202) 565-8267.

Dated: March 1, 1996.

By direction of the Secretary

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 96–5866 Filed 3–11–96; 8:45 am]

BILLING CODE 8320–01–P

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Veterans Health Administration, Veterans Affairs.

ACTION: Notice.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Veterans Health Administration (VHA) invites the general public and other Federal agencies to comment on this information collection. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3506(c)(2)(A)). Comments should address the accuracy of the burden estimates and ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology, as well as other relevant aspects of the information collection.

DATES: Written comments and recommendations on the proposal for the collection of information should be received on or before May 13, 1996.

ADDRESSES: Direct all written comments to Ann Bickoff, Veterans Health Administration (161A4), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420. All comments will become a matter of public record and will be summarized in the VHA request for Office of Management and Budget (OMB) approval. In this document VHA is soliciting comments concerning the following information collection:

OMB Control Number: None Assigned.

Title and Form Number: Survey of Health Promotion and Preventative Medicine, VA Form 10-21000(NR)

Type of Review: New collection.

Need and Uses: Congress has mandated that VA assess the rates that veterans are offered and receive critical health promotion and disease prevention services, and report these rates to Congress on an annual basis, Public Law 102–585. Existing data resources in VA are unable to provide complete documentation regarding receipt of those services. An annual mail survey is proposed to provide the necessary information.

Affected Public: Individuals and households.

Estimated Annual Burden: 5,777 hours.

Estimated Average Burden Per Respondent: 10 minutes.

Frequency of Response: Annually.

Estimated Number of Respondents: 51,900.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form should be directed to Department of Veterans Affairs, Attn: Jacquie McCray, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, Telephone (202) 565-8266 or FAX (202) 565-8267.

Dated: March 1, 1996.

By direction of the Secretary.

Donald L. Neilson,

Director,

Information Management Service.

[FR Doc. 96–5867 Filed 3–11–96; 8:45 am]

BILLING CODE 8320–01–P

Summary of Precedent Opinions of the General Counsel

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Department of Veterans Affairs (VA) is publishing a summary of legal interpretations issued by the Department's General Counsel involving veterans' benefits under laws administered by VA. These interpretations are considered precedential by VA and will be followed by VA officials and employees in future claim matters. It is being published to provide the public, and, in particular, veterans' benefit claimants and their representatives, with notice of VA's interpretation regarding the legal matter at issue.

FOR FURTHER INFORMATION CONTACT: Jane L. Lehman, Chief, Law Library, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273–6558.

SUPPLEMENTARY INFORMATION: VA regulations at 38 CFR 2.6(e)(9) and 14.507 authorize the Department's General Counsel to issue written legal opinions having precedential effect in adjudications and appeals involving veterans' benefits under laws administered by VA. The General Counsel's interpretations on legal matters, contained in such opinions, are conclusive as to all VA officials and employees not only in the matter at issue but also in future adjudications and appeals, in the absence of a change in controlling statute or regulation or a superseding written legal opinion of the General Counsel.

VA publishes summaries of such opinions in order to provide the public with notice of those interpretations of the General Counsel that must be followed in future benefit matters and to assist veterans' benefit claimants and their representatives in the prosecution of benefit claims. The full text of such opinions, with personal identifiers deleted, may be obtained by contacting the VA official named above.

VAOPGCPREC 19–95

Question Presented: To what extent does the six-year limitation period imposed by 31 U.S.C. 3702(b) apply to claims resulting from nonnegotiation by the payee of checks drawn on veterans' benefit appropriations? [1]

Held: The proceeds of uncashed veterans' benefit checks which have been canceled pursuant to the competitive Equality Banking Act of 1987 (CEBA), Pub. L. No. 100–86, 101 Stat. 552, are not payable unless a claim for them is made within six years after the claim accrues, as required by the Barring Act, ch. 788, 54 Stat. 1061 (1940) (codified, as amended, at 31 U.S.C. 3702(b)), regardless of whether the benefit checks were drawn on veterans' benefit appropriations. Claims based on checks which have been lost, stolen, paid on a forged endorsement, or were never received, and which have been canceled under the CEBA, must also be presented within the six-year period specified by section 3702(b). Section 3702(b) is not applicable, however, to a claim made to VA under 38 U.S.C. 5122 by a payee's surviving spouse, child, dependent parent, or person who bore the expense of the payee's last sickness and burial, as

[1] The Department of Veterans Affairs' (VA's) appropriation accounts identified in the request for opinion are 36X0102 (compensation and pension), 36X0137 (readjustment benefits), and 36X4023–25 and 36X4125–30 (loan guaranty).

specified in 38 U.S.C. 5121(a), for payment of sums represented by a check received by the payee but not negotiated before the payee's death. Instead, 38 CFR 3.1003(a)(1), which states that there is ''no time limit for filing a claim to obtain the proceeds'' of a check issued to a payee who died prior to negotiating the check, is controlling for claims made under section 5122.

Effective Date: July 12, 1995.

VAOPGCPREC 20–95

Question Presented: Under what circumstances must an examiner review a veteran's medical records prior to conducting a rating examination for compensation and pension purposes?

Held: Pursuant to the statutory duty under 38 U.S.C. 5107(a) to assist a claimant in the development of facts pertinent to a claim, and the decisions of the Court of Veterans Appeals interpreting that duty, a Department of Veterans Affairs examiner must review a claimant's prior medical records when such review is necessary to ensure a fully informed examination or to provide an adequate basis for the examiner's findings and conclusions. However, such review may not be necessary in all cases. The determinations as to whether review of prior medical records is necessary in a particular case depends largely upon the scope of the examination and the nature of the findings and conclusions the examiner is requested to provide.

Effective Date: July 14, 1995.

VAOPGCPREC 21–95

Question Presented: Must a recipient of Department of Veterans Affairs (VA) benefits who has been notified of waiver rights upon adjudication of an overpayment be notified of such rights again when an additional overpayment is established based on a separate and distinct transaction?

Held: A recipient of VA benefits who has been notified of his or her right to request a waiver of indebtedness arising from an overpayment of such benefits must again be notified of waiver rights when an additional overpayment is established based on a separate and distinct transaction.

Effective Date: August 24, 1995.

VAOPGCPREC 22–95

Questions Presented: a. What is the Department of Veterans Affairs' (VA's) responsibility concerning the direct payment of attorney fees from past-due benefits in cases where representation occurs solely before the Court of Veterans Appeals (CVA) and secondary benefits are determined to be payable?

b. (1) Must VA notify an attorney who no longer represents a claimant, and whose fee agreement does not call for direct payment of fees by VA, that past-due benefits are payable so that the attorney can pursue collection of a fee?

(2) Must VA pay attorney fees from past-due benefits when the attorney claiming entitlement to direct payment of fees no longer represents the claimant?

(3) Must VA pay attorney fees from past-due benefits when the attorney claiming the fee represented the claimant for only part of the time the claim was pending before the CVA?

Held: a. In cases where attorney representation is limited to proceedings before the CVA, VA is authorized to make direct payment of attorney fees from past-due secondary benefits if the CVA awards the secondary benefits, the fee agreement covers the secondary benefits, and the fee agreement complies with the provisions of 38 U.S.C. 5904(d)(3) and 38 CFR 20.609(h) (i)–(iii).

b. (1) Absent the claimant's written consent, VA has no authority to inform an attorney who is not seeking direct payment of attorney fees from VA, and no longer represents the claimant, that his or her former client will be receiving a future payment of past-due benefits.

(2) VA may directly pay attorney fees, to an attorney who represented a claimant during a CVA appeal, but no longer represents the claimant, if the statutory and regulatory prerequisites for direct payment of fees are met and the fee agreement provides for direct payment.

(3) VA's obligation to pay attorney fees when the attorney fee agreement was only in place for part of the time the case was pending before the CVA is dependent upon the terms of the fee agreement and whether the statutory and regulatory prerequisites for direct payment of attorney fees have been met.

Effective Date: September 28, 1995.

VAOPGCPREC 23–95

Question Presented: Under what circumstances do residential rehabilitation services provided to a veteran in a private facility at Department of Veterans Affairs (VA) expense constitute hospital treatment or institutional or domiciliary care furnished by the United States for purposes of the $1,500 estate limitation of 38 U.S.C. 5503(b)(1)(A) and 38 CFR 3.557(b)?

Held: The provisions of 38 U.S.C. 5503(b)(1)(A) and 38 CFR 3.557(b) generally require withholding of compensation and pension payments from incompetent veterans with estates in excess of $1,500 who have neither a spouse nor child and who are being furnished hospital treatment or institutional or domiciliary care by the United States or any political subdivision thereof. The terms of the statute and regulation encompass services provided by a private facility at government expense. Determination of whether the services provided to a particular veteran by a private facility fit any of the statutory categories of hospital treatment or institutional or domiciliary care requires an examination of the veteran's files to determine the nature and purpose of the services. With regard to hospital treatment, an assessment should be made as to whether the facility may be considered an institution the purpose of which is to provide medical and surgical care to sick, injured, or infirm persons and whether the veteran received such care at the institution. In the case of institutional care, a determination should be made whether the facility may be considered a charitable or public establishment which had custody of the veteran and which provided supervision or management of the veteran, having assumed responsibility for the veteran's well being. Finally, with respect to domiciliary care, the same factors concerning custody and supervision would be relevant. In addition, an assessment should be made concerning the permanence of the veteran's residence at the facility and whether the medical services provided the veteran were consistent with those generally associated with a domiciliary facility.

Effective Date: October 5, 1995.

VAOPGCPREC 24–95

Questions Presented: a. Are the provisions of 38 CFR 3.557 and 3.853 applicable in cases where a veteran has alleged but failed to establish the existence of a spouse or child, or, for section 3.853 purposes, a dependent parent, and is therefore being paid as a veteran without dependents?

b. Does the failure of a veteran to comply with the Department of Veterans Affairs' (VA) request pursuant to 38 CFR 3.216 for the social security number of a spouse, child, or dependent parent upon whom the veteran relies to avoid the application of 38 CFR §§ 3.557 or 3.853 require VA to terminate benefit payments to the veteran?

Held: a. Where the other statutory criteria have been met and it has not been established by satisfactory evidence that a veteran has a spouse or child, the provisions of 38 U.S.C. 5503(b)(1)(A), as implemented by 38 CFR 3.557, requiring discontinuance of

compensation or pension payments to an incompetent veteran having neither spouse nor child, institutionalized at government expense, and having an estate of $1,500 or more, are applicable. Where the other criteria have been met and it has not been established that a veteran has a spouse, child, or dependent parent, the provisions of former 38 U.S.C. 5505, as implemented by 38 CFR 3.853, requiring discontinuance of compensation payments to an incompetent veteran having neither spouse, child, nor dependent parent and having an estate in excess of $25,000, are applicable.

b. The provisions of 38 U.S.C. 5101(c), as implemented by 38 CFR 3.216, require any person who applies for or is in receipt of compensation or pension to furnish VA upon request with their social security number and that of any dependent on whose behalf, or based upon whom, benefits are sought or received. Failure of a veteran to supply the social security number of a spouse, child, or, in the case of former section 5505, dependent parent upon whom the veteran relies to avoid the application of 38 U.S.C. 5503(b)(1)(A) or former 38 U.S.C. 5505 would be grounds for termination of benefits pursuant to 38 U.S.C. 5101(c)(2), which requires termination of benefits for failure to comply with a request for a social security number.

Effective Date: October 27, 1995.

VAOPGCPREC 25–95

Question Presented: Does application by the Board of Veterans' Appeals (BVA or Board) of a subsequently-invalidated regulation constitute ''obvious error'' and provide a basis for reconsideration of the Board's decision?

Held: The Board's application of a subsequently-invalidated regulation in a decision does not constitute ''obvious error'' or provide a basis for reconsideration of the decision.

Effective Date: December 6, 1995.

VAOPGCPREC 26–95

Question Presented: May the Secretary (1) guarantee a loan; or (2) approve a Specially Adapted Housing grant for an otherwise eligible veteran to purchase a residence when title to the property will be held in a Family Living Trust?

Held: 1. An otherwise qualified veteran may obtain a VA guaranteed housing loan where the title to the property will be held in a Family Living Trust that ensures the veteran, or veteran and spouse, an equitable life estate, provided the lien attaches to any remainder interest and the trust arrangement is valid under State law and title is otherwise generally acceptable to lenders, attorneys, title companies, and informed buyers in the community where the property is located. The initial decision regarding validity of the lien and trust arrangement under State law may be made by the lender, subject to VA's right to adjust the claim under 38 CFR 36.4325 if the lien proves not to be valid.

2. Due to current regulations, the Family Living Trust arrangement will not provide the veteran with sufficient ownership interest in the unit to qualify for a Specially Adapted Housing grant.

3. The Secretary is urged to consider amending the regulations to specifically address Living Trusts in both the loan and grant programs.

Effective Date: December 15, 1995.

By Direction of the Secretary.

Mary Lou Keener,

General Counsel.

[FR Doc. 96–5863 Filed 3–11–96; 8:45 am]

BILLING CODE 8320–01–M