

(c) An appellant may also include one or more of the following in a notice of appeal: a request for oral presentation (§ 251.97); a request for stay of implementation of the decision pending decision on the appeal (§ 251.91); or, in those States with a USDA certified mediation program, a request for mediation of grazing permit cancellations or suspensions pursuant to § 251.103.

4. Amend § 251.91 by revising paragraph (a) to read as follows:

§ 251.91 Stays.

(a) A decision may be implemented during the appeal process, unless the Reviewing Officer grants a stay or unless a term grazing permit holder appeals a decision and simultaneously requests mediation pursuant to § 251.103. In the case of mediation requests, a stay is granted automatically upon receipt of the notice of appeal for the duration of the mediation period as provided in § 251.103 of this subpart.

* * * * *

5. Amend § 251.92 by adding a new paragraph (a)(8) and by revising paragraph (c) to read as follows:

§ 251.92 Dismissal.

(a) * * *

(8) A mediated agreement is reached (§ 251.103).

* * * * *

(c) A Reviewing Officer's dismissal decision is subject to discretionary review at the next administrative level as provided for in § 251.87(d) of this subpart, except when a dismissal decision results from withdrawal of an appeal by an appellant, withdrawal of the initial decision by the Deciding Officer, or a mediated resolution of the dispute.

6. Amend § 251.93 by revising paragraph (b) to read as follows:

§ 251.93 Resolution of issues.

* * * * *

(b) When decisions are appealed, the Deciding Officer may discuss the appeal with the appellant(s) and intervenor(s) together or separately to narrow issues, agree on facts, and explore opportunities to resolve the issues by means other than review and decision on the appeal, including mediation pursuant to § 251.103. At the request of the Deciding Officer, the Reviewing Officer may extend the time period to allow for meaningful negotiations, except for appeals under review at the discretionary level. In the event of mediation of a grazing dispute under § 251.103, the Reviewing Officer may

extend the time for mediation only as provided in § 251.103.

* * * * *

7. Amend 251.94 by revising paragraph (b) to read as follows:

§ 251.94 Responsive statement.

* * * * *

(b) *Timeframe.* Unless the Reviewing Officer has granted an extension or dismissed the appeal, or unless mediation has been requested under this subpart, the Deciding Officer shall prepare a responsive statement and send it to the Reviewing Officer and all parties to the appeal within 30 days of receipt of the notice of appeal. Where mediation occurs but fails to resolve the issues, the Deciding Officer shall prepare a responsive statement and send it to the Reviewing Officer and all parties to the appeal within 30 days of the reinstatement of the appeal timeframes (§ 251.103(c)).

* * * * *

8. Add a new § 251.103 to subpart c to read as follows:

§ 251.103 Mediation of term grazing permit disputes.

(a) *Decisions subject to mediation.* In those States with USDA certified mediation programs, any holder of a term grazing permit may request mediation, if a Deciding Officer issues a decision to suspend or cancel a term grazing permit, in whole or in part, as authorized by 36 CFR 222.4(a)(2) (i), (ii), (iv), (v), and (a)(3) through (a)(6).

(b) *Parties.* Notwithstanding the provisions addressing parties to an appeal at 36 CFR 251.86, only the following may participate in mediation of term grazing permit disputes under this section:

(1) A mediator authorized to mediate under a USDA state certified mediation program;

(2) The Deciding Officer who made the decision being mediated, or designee;

(3) The holder whose term grazing permit is the subject of the Deciding Officer's decision and who has requested mediation in the notice of appeal;

(4) The holder's creditors, if applicable; and

(5) Legal counsel, if applicable. The Forest Service will have legal counsel participate only if the permittee chooses to have legal counsel.

(c) *Timeframe.* When an appellant simultaneously requests mediation at the time an appeal is filed (§ 251.84), the Reviewing Officer shall immediately notify, by certified mail, all parties to

the appeal that, in order to allow for mediation, the appeal is suspended for 30 calendar days from the date of the Reviewing Officer's notice. If agreement has not been reached at the end of 30 calendar days, but it appears to the Deciding Officer that a mediated agreement may soon be reached, the Reviewing Officer may notify, by certified mail, all parties to the appeal that the period for mediation is extended for a period of up to 15 calendar days from the end of the 30-day appeal suspension period. If a mediated agreement cannot be reached under the specified timeframes, the Reviewing Officer shall immediately notify, by certified mail, all parties to the appeal that mediation was unsuccessful, that the stay granted during mediation is lifted, and that the timeframes and procedures applicable to an appeal (§ 251.89) are reinstated as of the date of such notice.

(d) *Confidentiality.* Mediation sessions shall be confidential; moreover, dispute resolution communications, as defined in 5 U.S.C. 571(5), shall be confidential. However, the terms of a final mediated agreement are subject to public disclosure.

(e) *Records.* Notes taken or factual material received during mediation sessions are not to be entered as part of the appeal record.

(f) *Cost.* The United States Government shall cover only the incurred expenses of its own employees in mediation sessions.

(g) *Ex parte Communications.* Except to request a time extension or communicate the results of mediation pursuant to paragraph (d) of this section, the Deciding Officer, or designee, shall not discuss mediation and/or appeal matters with the Reviewing Officer.

Dated: February 12, 1998.

Robert Lewis, Jr.,

Acting Associate Chief.

[FR Doc. 98-5102 Filed 2-26-98; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 17

RIN 2900-AJ03

Reconsideration of Denied Claims

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the Department of Veterans Affairs' "Medical" regulations by adding a new section to set forth reconsideration procedures available if requested by an individual or entity who made a claim for benefits administered by the Veterans Health Administration and who disagrees with the initial decision denying the claim. It is anticipated that these procedures would not only allow for more reflective decisions at the local level but would also allow some disputes to be resolved without the need for further appeal to the Board of Veterans Appeals.

DATES: VA must receive comments on or before April 28, 1998.

ADDRESSES: Mail or hand deliver written comments to: Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Avenue, NW, Room 1154, Washington, DC 20420. Comments should indicate that they are submitted in response to "RIN 2900-AJ03." All written comments received will be available for public inspection at the above address in the Office of Regulations Management, Room 1158, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays).

FOR FURTHER INFORMATION CONTACT: Troy L. Baxley, Health Administration Service (10C3), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington DC, 20420, telephone (202) 273-8301. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: This document proposes to amend the "Medical" regulations (38 CFR part 17) by adding a new § 17.133 to set forth reconsideration procedures available if requested by an individual or entity who made a claim for benefits administered by the Veterans Health Administration (VHA) (e.g., reimbursement for non-VA care not authorized in advance, reimbursement for beneficiary travel expenses, reimbursement for home improvements or structural alterations) and who disagrees with the initial decision denying the claim in whole or in part. These procedures would not be mandatory and a claimant may choose to appeal the denied claim to the Board of Veterans Appeals pursuant to 38 USC 7105 without using the new reconsideration procedures. The new reconsideration procedures would not be applicable in those cases where other specific reconsideration procedures apply. For example, there are specific

reconsideration provisions applicable to denied claims for CHAMPVA and spina bifida benefits.

As set forth in the text portion of this document, the reconsideration procedures would provide for a written request for reconsideration, reasons why the decision is in error, submission of any new and relevant information, opportunity for an informal meeting (with transcription upon request), and a written decision.

This informal reconsideration procedure would allow for more reflective decisions at the local level and would allow some disputes to be resolved without the need for further appeal to the Board of Veterans Appeals.

This regulation would supersede manual provisions for appeals of VHA decisions found at M-1, Part I, Chap. 1, Section X. The manual provisions are outdated and confusing, and included references to specific procedures that were previously rescinded.

Paperwork Reduction Act of 1995

The Office of Management and Budget (OMB) has determined that proposed 38 CFR 17.133 contains collections of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520). Accordingly, under section 3507(d) of the Act, VA has submitted a copy of this rulemaking action to OMB for its review of the collections of information.

OMB assigns a control number for each collection of information it approves. VA may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Comments on the proposed collections of information should be submitted to the Office of Management and Budget, Attention: Desk Officer for the Department of Veterans Affairs, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies mailed or hand-delivered to: Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Ave., NW, Room 1154, Washington, DC 20420. Comments should indicate that they are submitted in response to "RIN 2900-AJ03".

Reconsideration of Denied Claims—Section 17.133

Title: Reconsideration process available if requested by an individual or entity who made a claim for benefits administered by the Veterans Health Administration and who disagrees with

the initial decision denying the claim in whole or in part.

Summary of collection of information: The provisions of proposed 38 CFR 17.133 would add a new informal voluntary review process to existing appellate rights procedures. The person or entity requesting reconsideration would be required to submit such request to the Director of the VA healthcare facility of jurisdiction. It must be submitted in writing within one year of the date of the initial decision. The request must state why the decision is in error and include any new and relevant information not previously considered. The request for reconsideration may include a request for a meeting with the VA decisionmaker, the claimant, and the claimant's representative (if the claimant wishes to have a representative present). Such a meeting shall only be for the purpose of discussing the issues and shall not include formal procedures (such as presentation and cross-examination of witnesses). The meeting will be taped and transcribed by VA, if requested by the claimant, and a copy of the transcription shall be provided to the claimant. After reviewing the matter, the decisionmaker (the Chief, Health Administration Service, or equivalent) shall issue a written decision that affirms, reverses, or modifies the initial decision.

Description of need for information and proposed use of information: The information proposed to be collected under 17.133 appears to be necessary to initiate the reconsideration process.

Description of likely respondents: Individuals or other entities who make a claim for benefits administered by VHA and are denied.

Estimated number of respondents: 101,652.

Estimated frequency of responses: one time.

Estimated total annual reporting and recordkeeping burden: 16,942 hours.

Estimated annual burden per collection: 10 minutes per item.

The Department considers comments by the public on proposed collections of information in—

- Evaluating whether the proposed collections of information are necessary for the proper performance of the functions of the Department, including whether the information will have practical utility;

- Evaluating the accuracy of the Department's estimate of the burden of the proposed collections of information, including the validity of the methodology and assumptions used;

- Enhancing the quality, usefulness, and clarity of the information to be collected; and
- Minimizing the burden of the collections of information on those who are to respond, including responses through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

OMB is required to make a decision concerning the collection of information contained in this proposed rule between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment on the proposed regulations.

Regulatory Flexibility Act

The Secretary hereby certifies that the adoption of the proposed rule would not have a significant impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601-612. Although the adoption of the proposed rule could affect small businesses, it would not have a significant impact on any small business. Therefore, pursuant to 5 U.S.C. 605(b), the proposed rule is exempt from the initial and final regulatory flexibility analysis requirements of §§ 603 and 604.

There are no Catalog of Federal Domestic Assistance program numbers.

List of Subjects in 38 CFR Part 17

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

Approved: February 23, 1998.

Togo D. West, Jr.,
Acting Secretary.

For the reasons set forth in the preamble, 38 CFR part 17 is proposed to be amended as follows:

PART 17—MEDICAL

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

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

2. In part 17, an undesignated center heading and § 17.133 are added to read as follows:

RECONSIDERATION OF DENIED CLAIMS

§ 17.133 Procedures.

(a) *Scope.* This section sets forth reconsideration procedures available to an individual or entity who made a claim for benefits administered by the Veterans Health Administration (VHA) and who disagrees with the initial decision denying the claim in whole or in part. These procedures are not mandatory, and a claimant may choose to appeal the denied claim to the Board of Veterans Appeals pursuant to 38 U.S.C. 7105 without utilizing the provisions of this section. These procedures do not apply when other regulations providing reconsideration procedures do apply (e.g., CHAMPVA (38 CFR 17.84), spina bifida (38 CFR 17.904)). Otherwise, this section applies to all claims for VHA benefits (e.g., reimbursement for non-VA care not authorized in advance, reimbursement for beneficiary travel expenses, reimbursement for home improvements or structural alterations, etc.). Submitting a request for reconsideration shall constitute a notice of disagreement for purposes of filing a timely notice of disagreement under 38 U.S.C. 7105(b).

(b) *Process.* A request for reconsideration under this section must be submitted in writing to the Director of the healthcare facility of jurisdiction within one year of the date of the initial decision. The request must state why it is concluded that the decision is in error and must include any new and relevant information not previously considered. Any request for reconsideration that does not identify the reason for the dispute will be returned to the sender without further consideration. The request for reconsideration may include a request for a meeting with the VA decisionmaker, the claimant, and the claimant's representative (if the claimant wishes to have a representative present). Such a meeting shall only be for the purpose of discussing the issues and shall not include formal procedures (such as presentation and cross-examination of witnesses). The meeting will be taped and transcribed by VA if requested by the claimant and a copy of the transcription shall be provided to the claimant. After reviewing the matter, the decisionmaker (the Chief, Health Administration Service, or equivalent) shall issue a written decision that

affirms, reverses, or modifies the initial decision.

Note to § 17.133: The final decision of the decisionmaker will inform the claimant of further appellate rights for an appeal to the Board of Veterans Appeals.

(Authority: 38 U.S.C. 511)

[FR Doc. 98-5122 Filed 2-26-98; 8:45 am]

BILLING CODE 8320-01-P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

43 CFR Part 414

RIN 1006-AA40

Offstream Storage of Colorado River Water and Interstate Redemption of Storage Credits in the Lower Division States

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of proposed rulemaking; extension of deadline for comments.

SUMMARY: The Bureau of Reclamation (Reclamation) published a notice of proposed rulemaking on December 31, 1997 (62 FR 68491), which included the text of a proposed rule titled, "Offstream Storage of Colorado River Water and Interstate Redemption of Storage Credits in the Lower Division States." That notice specified that comments on the proposed rule must be received by Reclamation on or before March 2, 1998. Reclamation will extend the comment deadline an additional 32 days, until close of business on Friday, April 3, 1998.

DATES: Any comments must be received by Reclamation on or before April 3, 1998, in accordance with the criteria set forth in the December 31, 1997, notice of proposed rulemaking (62 FR 68491).

FOR FURTHER INFORMATION CONTACT: Mr. Dale Ensminger, telephone (702) 293-8659 or fax (702) 293-8042.

SUPPLEMENTARY INFORMATION: Reclamation received several requests for an extension of the deadline for comments on the proposed rule. In the interest of encouraging public participation, Reclamation is extending the deadline for written comments. If you have already prepared written comments to meet the March 2, 1998, deadline, you may supplement or replace those comments with an additional written response.