

because the bridges have opened only one time from 1999 through 2001.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under section 5 U.S.C. 605(b), that this proposed rule would not have a significant economic impact on a substantial number of small entities. This conclusion is based upon the fact that the closure of the bridges should have no significant impact on navigation because the bridges have opened only one time from 1999 through 2001.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520.).

Federalism

We have analyzed this proposed rule under Executive Order 13132 and have determined that this rule does not have implications for federalism under that Order.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those costs. This proposed rule would not impose an unfunded mandate.

Taking of Private Property

This proposed rule would not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental

Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of E.O. 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Environment

We considered the environmental impact of this proposed rule and concluded that, under figure 2–1, paragraph (32)(e), of Commandant Instruction M16475.1C, this proposed rule is categorically excluded from further environmental documentation because promulgation of drawbridge regulations have been found not to have a significant effect on the environment. A written “Categorical Exclusion Determination” is not required for this rule.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

For the reasons set out in the preamble, the Coast Guard proposes to amend 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g); § 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. From May 15, 2001 through August 15, 2001, § 117.789 is temporarily amended by suspending paragraph (c) and adding a new paragraph (g) to read as follows:

§ 117.789 Harlem River.

* * * * *

(g) The draws of the bridges at 103rd Street, mile 0.0, Willis Avenue, mile 1.5, 3rd Avenue, mile 1.9, Madison Avenue, mile 2.3, 145th Street, mile 2.8, Macombs Dam, mile 3.2, and 207th Street, mile 6.0, shall open on signal from 10 a.m. to 5 p.m. if at least a four-hour advance notice is given to the New

York City Highway Radio (Hotline) Room. The two Broadway bridges, mile 6.8, need not open for vessel traffic.

Dated: February 20, 2001.

G.N. Naccara,

Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.

[FR Doc. 01–5442 Filed 3–5–01; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 17

RIN 2900–AK01

Compensated Work Therapy/ Transitional Residences Program

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend VA's medical regulations to establish provisions regarding housing under the Compensated Work Therapy/ Transitional Residences program. These provisions are designed to ensure proper management, ensure reasonable payment rates for residents, and ensure that residents stay only for the time necessary to meet the intended goals.

DATES: Comments must be received by VA on or before May 7, 2001.

ADDRESSES: Mail or hand-deliver written comments to: Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Ave., NW., Room 1154, Washington, DC 20420; or fax comments to (202) 273–9289; or e-mail comments to OGCRegulations@mail.va.gov.

Comments should indicate that they are submitted in response to “RIN 2900–AK01.” All comments received will be available for public inspection in the Office of Regulations Management, Room 1158, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays).

FOR FURTHER INFORMATION CONTACT: Jamie Ploppert, Program Specialist, Office of Psychosocial Rehabilitation Services (116D), Veterans Health Administration, 757–722–9961, ext. 1123 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: This document proposes to amend VA's Medical regulations to establish provisions regarding housing under the Compensated Work Therapy/ Transitional Residences program. This VA program is a psychosocial rehabilitation program of therapeutic work and transitional housing. This program is designed for veterans with

physical and/or mental disabilities. It utilizes normalized work and residential living environments, along with peer and professional support, to improve vocational, social, and independent living skills.

Under the provisions of 38 U.S.C. 1772, VA must prescribe the qualifications for house managers, make provision for reasonable payment rates for residents, and establish limits on the length of stay for residents.

House Managers

The proposed rule provides that house managers shall be selected by the local VA program coordinator and will be responsible for coordinating and supervising the day-to-day operation of the facility. The proposed rule also sets forth qualifications for house managers. These qualifications are designed to foster effective management of the residence. Further, consistent with specific authority in 38 U.S.C. 1772(d), house managers would be exempt from the residence fee.

Resident Must Be in Program

The proposed rule states that each resident, except for a house manager, must be in the Compensated Work Therapy/Transitional Residences program. This reflects statutory requirements in 38 U.S.C. 1772.

Resident's Payment

The proposed rule sets forth criteria for establishing the amount to be paid by residents. The fee is based on the cost of utilities, maintenance, furnishings, appliances, service equipment, all other operating costs, plus an additional 15 percent of such operating expenses. Our experience has demonstrated that this would approximately equal the amount to be expended. The additional 15 percent would cover unexpected costs.

Further, we propose that the fee would be the same for each resident except that a resident shall not on average pay more than 30 percent of their gross weekly earnings. This percentage is what low-income subsidized housing uses in determining its rental fees. Further, our experience with the Compensated Work Therapy/Transitional Residences program has demonstrated that 30 percent of income would be adequate to cover housing expenses. The limitation of 30 percent also would help to ensure that residents have sufficient funds to meet their other living expenses as well as to help prepare for a successful transition to independent living.

Also, to help ensure that there is money to cover operating expenses

when due, the proposal states that a resident's fee must be paid bi-weekly in advance.

The proposed rule also contains a mechanism for the transfer of funds from the medical center of jurisdiction if necessary for the residence to obtain fiscal solvency.

Resident's Length of Stay

We propose that the length of stay in the housing be based on the individual needs of each veteran in consensus with his/her clinical treatment team. However, we also propose that the length of stay not exceed 12 months. We believe this period of time to be sufficient to address the veterans' psychosocial rehabilitative needs before their transition to independent living.

OMB Review

This document has been reviewed by the Office of Management and Budget under Executive Order 12866.

Paperwork Reduction Act

This document contains no provisions constituting a collection of information under the Paperwork Reduction Act (44 U.S.C. 3501-3520).

Regulatory Flexibility Act

The Secretary hereby certifies that the adoption of this proposed rule would 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 document affects individuals and does not affect small entities. Therefore, pursuant to 5 U.S.C. 605(b), this proposed rule is exempt from the initial and final regulatory flexibility analysis requirement of sections 603 and 604.

List of Subjects in 38 CFR Part 17

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

Approved: February 15, 2001.

Anthony J. Principi,

Acting Secretary of Veterans Affairs.

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

PART 17—MEDICAL

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

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

2. Redesignate § 17.49 as new § 17.48.
3. Add a new § 17.49 to read as follows:

§ 17.49 Compensated Work Therapy/Transitional Residences program.

(a) This section sets forth requirements for persons residing in housing under the Compensated Work Therapy/Transitional Residences program.

(b) House managers shall be responsible for coordinating and supervising the day-to-day operations of the facilities. Each house manager shall be appointed as a without-compensation employee. The local VA program coordinator shall select each house manager and may give preference to an individual who is a current or past resident of the facility or the program. A house manager must have the following qualifications:

- (1) A stable, responsible and caring demeanor;
- (2) Leadership qualities including the ability to motivate;
- (3) Effective communication skills including the ability to interact;
- (4) A willingness to accept feedback;
- (5) A willingness to follow a chain of command.

(c) Each resident admitted to the Transitional Residence, except for a house manager, must also be in the Compensated Work Therapy program.

(d) Each resident, except for a house manager, must bi-weekly, in advance, pay a fee to VA for living in the housing. The local VA program coordinator will establish the fee for each resident in accordance with the provisions of paragraph (d)(1) of this section.

(1) The total amount of actual operating expenses of the residence (utilities, maintenance, furnishings, appliances, service equipment, all other operating costs) for the previous fiscal year plus 15 percent of that amount equals the total operating budget for the current fiscal year. The total operating budget is to be divided by the average number of beds occupied during the previous fiscal year and the resulting amount is the average yearly amount per bed. The bi-weekly fee shall equal to $\frac{1}{26}$ of the average yearly amount per bed, except that a resident shall not, on average, pay more than 30 percent of their gross CWT (Compensated Work Therapy) bi-weekly earnings. The VA program manager shall, bi-annually, conduct a review of the factors in this

paragraph for determining resident payments. If he or she determines that the payments are too high or too low by more than 5 percent of the total operating budget, he or she shall recalculate resident payments under the criteria set forth above, except that the calculations shall be based on the current fiscal year (actual amounts for the elapsed portion and projected amounts for the remainder).

(2) If the revenues of a residence do not meet the expenses of the residence resulting in an inability to pay actual operating expenses, the medical center of jurisdiction shall provide the funds necessary to return the residence to fiscal solvency in accordance with the provisions of this section.

(e) The length of stay in housing under the Compensated Work Therapy/ Transitional Residences program is based on the individual needs of each resident, as determined by consensus of the resident and his/her VA Clinical Treatment team. However, the length of stay should not exceed 12 months.

(Authority: 38 U.S.C. 1772)

[FR Doc. 01-5404 Filed 3-5-01; 8:45 am]

BILLING CODE 8320-01-P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 19

RIN 2900-AK62

Appeals Regulations: Title for Members of the Board of Veterans' Appeals

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the Department of Veterans Affairs' (VA) Appeals Regulations to provide that a Member of the Board of Veterans' Appeals (Board) may also be known as a Veterans Law Judge. A companion document in the "Rules and Regulations" section of this issue of the **Federal Register** contains other actions regarding this matter.

DATES: Comments must be received on or before May 7, 2001.

ADDRESSES: Mail or hand-deliver written comments to: Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Ave., NW., Room 1154, Washington, DC 20420; or fax comments to (202) 273-9289; or e-mail comments to OGCRegulations@mail.va.gov. Comments should indicate that they are submitted in response to "RIN 2900-AK62." All comments received will be

available for public inspection 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: Steven L. Keller, Senior Deputy Vice Chairman (01C), Board of Veterans' Appeals, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 (202-565-5978).

SUPPLEMENTARY INFORMATION: The Board is an administrative body that decides appeals from denials of claims for veterans' benefits, after an opportunity for a hearing. There are currently 59 Board "Members," who decide 35,000 to 40,000 such appeals per year.

Board Members other than the Chairman are appointed by the Secretary of Veterans Affairs, with the approval of the President of the United States, 38 U.S.C. 7101A(a)(1), and must be licensed attorneys, 38 U.S.C. 7101A(a)(2). Board Members are compensated at rates equivalent to the rates payable to Administrative Law Judges. 38 U.S.C. 7101A(b).

In a document published in the **Federal Register** on September 14, 2000 (65 FR 55461), we amended VA's Appeals Regulations by providing that a Member of the Board may also be known as a Veterans Law Judge. Consistent with legal authority, we published the amendment without providing an opportunity for notice-and-comment. Six veterans service organizations in a letter to the Acting Secretary opposed the amendment and argued that they should have been provided an opportunity to comment before we made such a change. Under these circumstances, in a companion document in the "Rules and Regulations" section of this issue of the **Federal Register** we rescinded the amendment. However, in this document we are proposing to amend the regulations to again provide that a Member of the Board may also be known as a Veterans Law Judge.

This proposal to allow the use of the title Veterans Law Judge is based on the following analyses.

Throughout the Executive Branch, individuals who decide appeals at the administrative level after the opportunity for a hearing—as do Board Members—are known as "judges." *E.g.*, "Administrative Law Judges," 5 U.S.C. 3105; "Administrative Appeals Judges" at the Benefits Review Board at the Department of Labor, 20 CFR 801.2; "Administrative Judges" at the Financial Assistance Appeals Board of the Department of Energy, 10 CFR 1024.3; "Administrative Judges" at the

Equal Employment Opportunity Commission, 29 CFR 1614.109; "Administrative Judges" at the Personnel Appeals Board of the General Accounting Office, 4 CFR 28.3; "Administrative Judges" at the Merit Systems Protection Board, 5 CFR 1201.4; "Administrative Judges" at the National Aeronautics and Space Administration, 14 CFR 1259.404; and "Administrative Judges" at the Office of Hearings and Appeals, Small Business Administration, 13 CFR 134.101. *See also* "Administrative Appeals Judges" at the Office of Hearings and Appeals of the Social Security Administration, 20 CFR 416.924(g) (decide appeals from decisions of administrative law judges, but without the opportunity for a hearing); "Immigration Judges" at the Executive Office for Immigration Review in the Department of Justice, 8 CFR 1.1(l) (initial decisions in immigration cases).

In our view, the title Veterans Law Judge would convey a Board Member's function to veterans more accurately than the term "Member." In addition, we believe that the title would enhance the confidence of veterans in the administrative appellate process by providing recognition that appeals in the VA system are adjudicated by legal professionals, as are benefit appeals in other administrative systems.

The letter from the six veterans service organizations asserted that VA could not accomplish through regulation what Congress chose not to do by statute. We are aware of no legal authority to support this view. The letter from the six veterans service organizations also opposed the proposed change by arguing that the title Veterans Law Judge "will intimidate veterans and could lead them to believe the agency is more concerned with formality rather than deciding claims in a non-adversarial setting." The comments from the six veterans service organizations will be considered in connection with any other comments received in response to this proposed rule.

Paperwork Reduction Act

This document contains no provisions constituting a collection of information under the Paperwork Reduction Act (44 U.S.C. 3501-3520).

Executive Order 12866

This document has been reviewed by the Office of Management and Budget under Executive Order 12866.

Regulatory Flexibility Act

The Secretary hereby certifies that this proposed rule would not have a