

dry for three hours at a time during waking hours; or, despite bowel management techniques or other treatment to control the effects of bowel impairment, has fecal leakage severe or frequent enough to require wearing of absorbent materials at least four days a week; or, regularly requires manual evacuation or digital stimulation to empty the bowel; or, has a colostomy that requires wearing a bag.

(2) If an individual who would otherwise be paid at Level I or II has one or more disabilities, such as blindness, uncontrolled seizures, or renal failure that result either from spina bifida, or from treatment procedures for spina bifida, the Director of the Compensation and Pension Service may increase the monthly payment to the level that, in his or her judgment, best represents the extent to which the disabilities resulting from spina bifida limit the individual's ability to engage in ordinary day-to-day activities, including activities outside the home. A Level II or Level III payment will be awarded depending on whether the effects of a disability are of equivalent severity to the effects specified under Level II or Level III.

(3) VA may accept statements from private physicians, or examination reports from government or private institutions, for the purpose of rating spina bifida claims without further examination, provided the statements or reports are adequate for assessing the level of disability due to spina bifida under the provisions of paragraph (d)(1) of this section. In the absence of adequate medical information, VA will schedule an examination for the purpose of assessing the level of disability.

(4) VA will pay an individual eligible for a monetary allowance due to spina bifida at Level I unless or until it receives medical evidence supporting a higher payment. When required to reassess the level of disability under paragraph (d)(5) or (d)(6) of this section, VA will pay an individual eligible for this monetary allowance at Level I in the absence of evidence adequate to support a higher level of disability or if the individual fails to report, without good cause, for a scheduled examination. Examples of good cause include, but are not limited to, the illness or hospitalization of the claimant, death of an immediate family member, etc.

(5) VA will pay individuals under the age of one year at Level I unless a pediatric neurologist or a pediatric neurosurgeon certifies that, in his or her medical judgment, there is a neurological deficit that will prevent the individual from ambulating, grasping a

pen, feeding himself or herself, performing self care, or from achieving urinary or fecal continence. If any of those deficits are present, VA will pay the individual at Level III. In either case, VA will reassess the level of disability when the individual reaches the age of one year.

(6) VA will reassess the level of payment whenever it receives medical evidence indicating that a change is warranted. For individuals between the ages of one and twenty-one, however, it must reassess the level of payment at least every five years.

Authority: 38 U.S.C. 501, 1805)

[FR Doc. 01-5450 Filed 3-5-01; 8:45 am]

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DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 19

RIN 2900-AK61

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

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: In a document published in the *Federal Register* on September 14, 2000 (65 FR 55461), we amended the Department of Veterans Affairs (VA) Appeals Regulations by providing that a Member of the Board of Veterans' Appeals (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.

On October 27, 2000, six veterans service organizations wrote to the Acting Secretary, opposing the amendment and arguing that they should have been provided an opportunity to comment before we made such a change. Under these circumstances, we agreed to rescind the amendment and propose to reestablish the amendment. Accordingly, this document rescinds the amendment. In a companion document in the "Proposed Rules" section of this issue of the *Federal Register*, 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.

DATES: *Effective Date:* March 6, 2001.

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

SUPPLEMENTARY INFORMATION: This final rule concerns agency organization, procedure or practice and is not a substantive rule. Accordingly, this final rule is exempt from the notice-and-comment requirements and the delayed effective date provisions of 5 U.S.C. 553.

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 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 rule will not affect small businesses. Therefore, pursuant to 5 U.S.C. 605(b), this final rule is exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

List of Subjects in 38 CFR Part 19

Administrative practice and procedure, Claims, Veterans.

Dated: February 21, 2001.

Anthony J. Principi,
Secretary of Veterans Affairs.

For the reasons set out in the preamble, 38 CFR part 19 is amended as set forth below:

PART 19—BOARD OF VETERANS' APPEALS: APPEALS REGULATIONS

1. The authority citation for part 19 continues to read as follows:

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

2. Section 19.2 is revised to read as follows:

§ 19.2 Composition of the Board.

The Board consists of a Chairman, Vice Chairman, Deputy Vice Chairmen, Members and professional, administrative, clerical and stenographic personnel. Deputy Vice Chairmen are Members of the Board who are appointed to that office by the Secretary upon the recommendation of the Chairman.

Authority: 38 U.S.C. 501(a), 512, 7101(a)

[FR Doc. 01-5451 Filed 3-5-01; 8:45 am]

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