

Organization and Clarity

We are making changes to the format of 38 CFR 1.620(e) and (h) to provide better organization and clarity.

Administrative Procedures Act

We are publishing this as a final rule without notice and comment under the provisions of 5 U.S.C. 553 because the changes it makes either are non-substantive or merely reflect statutory changes.

Unfunded Mandates

The Unfunded Mandates Reform Act requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before developing any rule that may result in an expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any given year. This rule would have no such effect on State, local, or tribal governments, or the private sector.

Paperwork Reduction Act

This document does not contain new provisions constituting a collection of information under the Paperwork Reduction Act (44 U.S.C. 3501–3521).

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. Only individual VA beneficiaries would be directly affected. 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.

Catalog of Federal Domestic Assistance Program Number

The Catalog of Federal Domestic Assistance program number for this document is 64.201.

List of Subjects in 38 CFR Part 1

Administrative practice and procedure, Cemeteries, Veterans.

Approved: May 27, 2004.

Anthony J. Principi,

Secretary of Veterans Affairs.

■ For the reasons set out in the preamble, 38 CFR part 1 is amended as set forth below:

PART 1—GENERAL PROVISIONS

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

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

■ 2. In § 1.620, revise paragraphs (e) and (h) to read as follows:

§ 1.620 Eligibility for burial.

* * * * *

(e) The spouse, surviving spouse, minor child, or unmarried adult child of a person eligible under paragraph (a), (b), (c), (d), or (g) of this section. For purposes of this section—

(1) A surviving spouse includes a surviving spouse who had a subsequent remarriage;

(2) A minor child means an unmarried child under 21 years of age, or under 23 years of age if pursuing a full-time course of instruction at an approved educational institution; and

(3) An unmarried adult child means a child who became permanently physically or mentally disabled and incapable of self-support before reaching 21 years of age, or before reaching 23 years of age if pursuing a full-time course of instruction at an approved educational institution.

* * * * *

(h) Any person who:

(1) Was a citizen of the United States or an alien lawfully admitted for permanent residence in the United States at the time of their death; and

(2) Resided in the United States at the time of their death; and

(3) Either was a—

(i) Commonwealth Army veteran or member of the organized guerillas—a person who served before July 1, 1946, in the organized military forces of the Government of the Commonwealth of the Philippines, while such forces were in the service of the Armed Forces of the United States pursuant to the military order of the President dated July 26, 1941, including organized guerilla forces under commanders appointed, designated, or subsequently recognized by the Commander in Chief, Southwest Pacific Area, or other competent authority in the Army of the United States, and who died on or after November 1, 2000; or

(ii) New Philippine Scout—a person who enlisted between October 6, 1945, and June 30, 1947, with the Armed Forces of the United States with the consent of the Philippine government, pursuant to section 14 of the Armed Forces Voluntary Recruitment Act of 1945, and who died on or after December 16, 2003.

(Authority: 38 U.S.C. 107, 501, 2402)

[FR Doc. 04–14799 Filed 6–30–04; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 17

RIN 2900–AL49

Copayments for Extended Care Services

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document amends VA's medical regulations by modifying provisions regarding the methodology of computing copayments for extended care services provided to veterans. This final rule enhances the protection of veterans' spouses by not counting certain assets as available resources for computing these copayments. Other non-substantive changes are made for purposes of clarification.

DATES: *Effective Date:* The final rule is effective August 2, 2004.

FOR FURTHER INFORMATION CONTACT:

Eileen Downey, Chief Business Office (161), at (202) 254–0347 and Daniel Schoeps, Geriatrics and Extended Care (114), at (202) 273–8540. Both are officials in the Veterans Health Administration, 810 Vermont Avenue, NW., Washington, DC 20420. (These are not toll free numbers.)

SUPPLEMENTARY INFORMATION: In a document published in the **Federal Register** on October 16, 2003 (68 FR 59557), we proposed to amend VA's medical regulations by modifying provisions regarding the methodology of computing copayments for extended care services provided to veterans either directly by VA or by contract. These changes are as follows: We are revising the formulas to clarify what resources veterans have available for purposes of determining the appropriate copayment. We are excluding from the definition of "available resources" contained in paragraph (d)(1) of § 17.111 income, assets, expenses and allowance of legally separated spouses. We are removing from the definition of "veterans allowance" the inclusion of expenses because we are now including expenses in the definition of "available resources" contained in paragraph (d)(1) of § 17.111. We are also changing the definition of "expenses," to include (1) insurance premiums of the veteran and the veteran's spouse and dependents and (2) personal property taxes, not just income taxes. Further, we are clarifying that the definition of "liquid assets," includes art, rare coins, stamp collections, and collectibles and changing that definition to exclude household and personal items such as

furniture, clothing, and jewelry when the veteran's spouse or the veteran's dependents are living in the community or the veteran is receiving noninstitutional extended care services. We are adding at paragraph (d)(2)(vi) of § 17.111 a definition of "spousal resource protection amount" to permit a spouse to maintain some liquid assets while they live in the community. Lastly, we are clarifying that a veteran must report a change in marital status to a VA medical facility within 10 days of the change.

The public comment period ended on December 15, 2003, without any comment. Based on the rationale set forth in the proposed rule, we are adopting the provisions of the proposed rule as a final rule without any changes.

Paperwork Reduction Act

The Office of Management and Budget has approved the collections of information requirements related to this rulemaking proceeding under OMB control number 2900-0629.

Unfunded Mandates

The Unfunded Mandates Reform Act requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before developing any rule that may result in an expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any given year. This rule would have no such effect on State, local, or tribal governments, or the private sector.

Regulatory Flexibility Act

The Secretary hereby certifies that this regulatory amendment 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. This amendment would not directly affect any small entities. Only individuals could be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), this amendment is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

Catalog of Federal Domestic Assistance Numbers

The Catalog of Federal Domestic Assistance numbers for the programs affected by this document are 64.005, 64.007, 64.008, 64.009, 64.010, 64.011, 64.012, 64.013, 64.014, 64.015, 64.016, 64.018, 64.019, 64.022, and 64.025.

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 record-keeping requirements, Scholarships and fellowships, Travel and transportation expenses, Veterans.

Approved: May 28, 2004.

Anthony J. Principi,

Secretary of Veterans Affairs.

■ For the reasons set out in the preamble, 38 CFR part 17 is amended as set forth below:

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. In § 17.111, paragraphs (d) through (g) and the authority citation at the end of the section are revised to read as follows:

§ 17.111 Copayments for extended care services.

* * * * *

(d) *Effect of the veteran's financial resources on obligation to pay copayment.* (1) A veteran is obligated to pay the copayment to the extent the veteran and the veteran's spouse have available resources. For veterans who have been receiving extended care services for 180 days or less, their available resources are the sum of the income of the veteran and the veteran's spouse, minus the sum of the veterans allowance, the spousal allowance, and expenses. For veterans who have been receiving extended care services for 181 days or more, their available resources are the sum of the value of the liquid assets, the fixed assets, and the income of the veteran and the veteran's spouse, minus the sum of the veterans allowance, the spousal allowance, the spousal resource protection amount, and (but only if the veteran—has a spouse or dependents residing in the community who is not institutionalized) expenses. When a veteran is legally separated from a spouse, available resources do not include spousal income, expenses, and assets or a spousal allowance.

(2) For purposes of determining available resources under this section:

(i) *Income* means current income (including, but not limited to, wages and income from a business (minus business expenses), bonuses, tips,

severance pay, accrued benefits, cash gifts, inheritance amounts, interest income, standard dividend income from non tax deferred annuities, retirement income, pension income, unemployment payments, worker's compensation payments, black lung payments, tort settlement payments, social security payments, court mandated payments, payments from VA or any other Federal programs, and any other income). The amount of current income will be stated in frequency of receipt, e.g., per week, per month.

(ii) *Expenses* means basic subsistence expenses, including current expenses for the following: rent/mortgage for primary residence; vehicle payment for one vehicle; food for veteran, veteran's spouse, and veteran's dependents; education for veteran, veteran's spouse, and veteran's dependents; court-ordered payments of veteran or veteran's spouse (e.g., alimony, child-support); and including the average monthly expenses during the past year for the following: utilities and insurance for the primary residence; out-of-pocket medical care costs not otherwise covered by health insurance; health insurance premiums for the veteran, veteran's spouse, and veteran's dependents; and taxes paid on income and personal property.

(iii) *Fixed Assets* means:

(A) Real property and other non-liquid assets; except that this does not include—

(1) Burial plots;

(2) A residence if the residence is:

(i) The primary residence of the veteran and the veteran is receiving only noninstitutional extended care service; or

(ii) The primary residence of the veteran's spouse or the veteran's dependents (if the veteran does not have a spouse) if the veteran is receiving institutional extended care service.

(3) A vehicle if the vehicle is:

(i) The vehicle of the veteran and the veteran is receiving only noninstitutional extended care service; or

(ii) The vehicle of the veteran's spouse or the veteran's dependents (if the veteran does not have a spouse) if the veteran is receiving institutional extended care service.

(B) [Reserved]

(iv) *Liquid assets* means cash, stocks, dividends received from IRA, 401K's and other tax deferred annuities, bonds, mutual funds, retirement accounts (e.g., IRA, 401Ks, annuities), art, rare coins, stamp collections, and collectibles of the veteran, spouse, and dependents. This includes household and personal items (e.g., furniture, clothing, and jewelry) except when the veteran's

spouse or dependents are living in the community.

(v) *Spousal allowance* is an allowance of \$20 per day that is included only if the spouse resides in the community (not institutionalized).

(vi) *Spousal resource protection* amount means the value of liquid assets but not to exceed \$89,280 if the spouse is residing in the community (not institutionalized).

(vii) *Veterans allowance* is an allowance of \$20 per day.

(3) The maximum amount of a copayment for any month equals the copayment amount specified in paragraph (b)(1) of this section multiplied by the number of days in the month. The copayment for any month may be less than the amount specified in paragraph (b)(1) of this section if the veteran provides information in accordance with this section to establish that the copayment should be reduced or eliminated.

(e) *Requirement to submit information.* (1) Unless exempted under

paragraph (f) of this section, a veteran must submit to a VA medical facility a completed VA Form 10-10EC and documentation requested by the Form at the following times:

(i) At the time of initial request for an episode of extended care services;

(ii) At the time of request for extended care services after a break in provision of extended care services for more than 30 days; and

(iii) Each year at the time of submission to VA of VA Form 10-10EZ.

(2) When there are changes that might change the copayment obligation (*i.e.*, changes regarding marital status, fixed assets, liquid assets, expenses, income (when received), or whether the veteran has a spouse or dependents residing in the community), the veteran must report those changes to a VA medical facility within 10 days of the change.

(f) *Veterans and care that are not subject to the copayment requirements.* The following veterans and care are not subject to the copayment requirements of this section:

(1) A veteran with a compensable service-connected disability;

(2) A veteran whose annual income (determined under 38 U.S.C. 1503) is less than the amount in effect under 38 U.S.C. 1521(b);

(3) Care for a veteran's noncompensable zero percent service-connected disability;

(4) An episode of extended care services that began on or before November 30, 1999;

(5) Care authorized under 38 U.S.C. 1710(e) for Vietnam-era herbicide-exposed veterans, radiation-exposed veterans, Persian Gulf War veterans, or post-Persian Gulf War combat-exposed veterans;

(6) Care for treatment of sexual trauma as authorized under 38 U.S.C. 1720D; or

(7) Care or services authorized under 38 U.S.C. 1720E for certain veterans regarding cancer of the head or neck.

(g) *VA Form 10-10EC.*

BILLING CODE 8320-01-P

 Department of Veterans Affairs		APPLICATION FOR EXTENDED CARE SERVICES	
SECTION I - GENERAL INFORMATION			
1. VETERAN'S NAME (Last, First, MI)		2. SOCIAL SECURITY NUMBER	
SECTION II - INSURANCE INFORMATION			
ANSWER YES OR NO WHERE APPLICABLE (OTHERWISE PROVIDE THE REQUESTED INFORMATION)			
3. ARE YOU ELIGIBLE FOR MEDICAID? <input type="checkbox"/> YES <input type="checkbox"/> NO		3A. ARE YOU ENROLLED IN MEDICARE PART A (Hospital Insurance) <input type="checkbox"/> YES <input type="checkbox"/> NO	
4. ARE YOU ENROLLED IN MEDICARE PART B (Medical Insurance) <input type="checkbox"/> YES <input type="checkbox"/> NO		4A. EFFECTIVE DATE (If "Yes")	4B. MEDICARE CLAIM NUMBER (If applicable)
5. ARE YOU COVERED BY HEALTH INSURANCE (including coverage through a spouse)? (If "YES", provide the following information for all insurance company(s) providing coverage to you.) <input type="checkbox"/> YES <input type="checkbox"/> NO			
6. NAME OF INSURANCE COMPANY		6A. ADDRESS OF INSURANCE COMPANY	
6C. NAME OF POLICY HOLDER		6D. RELATIONSHIP OF POLICY HOLDER	6E. POLICY NUMBER
6F. GROUP NAME AND OR NUMBER		6B. PHONE NUMBER OF INSURANCE COMPANY	
7. NAME OF INSURANCE COMPANY		7A. ADDRESS OF INSURANCE COMPANY	
7C. NAME OF POLICY HOLDER		7D. RELATIONSHIP OF POLICY HOLDER	7E. POLICY NUMBER
7F. GROUP NAME AND OR NUMBER		7B. PHONE NUMBER OF INSURANCE COMPANY	
8. NAME OF INSURANCE COMPANY		8A. ADDRESS OF INSURANCE COMPANY	
8C. NAME OF POLICY HOLDER		8D. RELATIONSHIP OF POLICY HOLDER	8E. POLICY NUMBER
8F. GROUP NAME AND OR NUMBER		8B. PHONE NUMBER OF INSURANCE COMPANY	
SECTION III - SPOUSE/DEPENDENT INFORMATION			
9. CURRENT MARITAL STATUS (Check one) <input type="checkbox"/> MARRIED <input type="checkbox"/> NEVER MARRIED <input type="checkbox"/> LEGALLY SEPARATED <input type="checkbox"/> WIDOWED <input type="checkbox"/> DIVORCED		9A. SPOUSE'S NAME (Last, First, MI)	
9B. SPOUSE RESIDING IN THE COMMUNITY? (Provide address and phone number if different from veteran) <input type="checkbox"/> YES <input type="checkbox"/> NO (If "No", explain)		9C. SPOUSE'S SOCIAL SECURITY NUMBER	
10. DEPENDENT'S NAME (Last, First, MI)		10A. DEPENDENT'S DATE OF BIRTH	10B. DEPENDENT'S SOCIAL SECURITY
10C. DEPENDENT RESIDING IN THE COMMUNITY? (Provide address and phone number if different from veteran) <input type="checkbox"/> YES <input type="checkbox"/> NO (If "No", explain)			
11. DEPENDENT'S NAME (Last, First, MI)		11A. DEPENDENT'S DATE OF BIRTH	11B. DEPENDENT'S SOCIAL SECURITY
11C. DEPENDENT RESIDING IN THE COMMUNITY? (Provide address and phone number if different from veteran) <input type="checkbox"/> YES <input type="checkbox"/> NO (If "No", explain)			
We need to collect information regarding income, assets and expenses for you and your spouse. If you do not wish to provide this information you must sign agreeing to make copayments and will be charged the maximum copayment amount for all services. See the top of page 2, read, sign and date.			

APPLICATION FOR EXTENDED CARE SERVICES, Continued		VETERAN'S NAME		SOCIAL SECURITY NUMBER	
I do not wish to provide my detailed financial information. I understand that I will be assessed the maximum copayment amount for extended care services and agree to pay the applicable VA copayment as required by law.					
SIGNATURE				DATE	
SECTION IV - FIXED ASSETS (VETERAN AND SPOUSE)				VETERAN	SPOUSE
1. Primary Residence (Market value minus mortgages or liens. Exclude if veteran receiving only non-institutional extended care services or spouse or dependent residing in the community). If the veteran and spouse maintain separate residences, and the veteran is receiving institutional (inpatient) extended care services, include value of the veteran's primary residence.)				\$	\$
2. Other Residences/Land/Farm or Ranch (Market value minus mortgages or liens. This would include a second home, vacation home, rental property.)				\$	\$
3. Vehicle(s) (Value minus any outstanding lien. Exclude primary vehicle if veteran receiving only non-institutional extended care services or spouse or dependent residing in community. If the veteran and spouse maintain separate residences and vehicles, and the veteran is receiving institutional (inpatient) extended care services, include value of the veteran's primary vehicle.)				\$	\$
SECTION V - LIQUID ASSETS (VETERAN AND SPOUSE)					
1. Cash, Amount in Bank Accounts (e.g., checking and savings accounts, certificates of deposit, individual retirement accounts, stocks and bonds).				\$	\$
2. Value of Other Liquid Assets (e.g., art, rare coins, stamp collections, collectibles) Minus the amount you owe on these items. Exclude household effects, clothing, jewelry, and personal items if veteran receiving only non-institutional extended care services or spouse or dependent residing in the community.				\$	\$
SUM OF ALL LINES FIXED AND LIQUID ASSETS		TOTAL ASSETS		\$	\$
SECTION VI - CURRENT GROSS INCOME OF VETERAN AND SPOUSE					
CATEGORY	VETERAN		SPOUSE		
	HOW MUCH	HOW OFTEN	HOW MUCH	HOW OFTEN	
1. Gross annual income from employment (e.g., wages, bonuses, tips, severances pay, accrued benefits)	\$		\$		
2. Net income from your farm/ranch, property or business.	\$		\$		
3. List other income amounts (e.g., social security, Retirement and pension, interest, dividends) Refer to instructions.	\$		\$		
SECTION VII - DEDUCTIBLE EXPENSES					
ITEMS					AMOUNT
1. Educational expenses of veteran, spouse or dependent (e.g., tuition, books, fees, material, etc.)					\$
2. Funeral and Burial (spouse or child, amount you paid for funeral and burial expenses, including prepaid arrangements)					\$
3. Rent/Mortgage (monthly amount or annual amount)					\$
4. Utilities (calculate by average monthly amounts over the past 12 months)					\$
5. Car Payment for one vehicle only (exclude gas, automobile insurance, parking fees, repairs)					\$
6. Food (for veteran, spouse and dependent)					\$
7. Non-reimbursed medical expenses paid by you or spouse (e.g., copayments for physicians, dentists, medications, Medicare, health insurance, hospital and nursing home expenses)					\$
8. Court-ordered payments (e.g., alimony, child support)					\$
9. Insurance (e.g., automobile insurance, homeowners insurance) Exclude Life Insurance					\$
10. Taxes (e.g., personal property for home, automobile) Include average monthly expense for taxes paid on income over the past 12 months.					\$
TOTALS					\$
SECTION VIII - CONSENT FOR ASSIGNMENT OF BENEFITS					
I hereby authorize the Department of Veterans Affairs to disclose any such history, diagnostic and treatment information from my medical records to the contractor of any health plan contract under which I am apparently eligible for medical care or payment of the expense of care or to any other party against whom liability is asserted. I understand that I may revoke this authorization at any time, except to the extent that action has already been taken in reliance on it. Without my express revocation, this consent will automatically expire when all action arising from VA's claim for reimbursement for my medical care has been completed. I authorize payment of medical benefits to VA for any services for which payment is accepted.					
SIGNATURE					DATE

APPLICATION FOR EXTENDED CARE SERVICES, Continued	VETERANS NAME	SOCIAL SECURITY NUMBER
SECTION IX - CONSENT TO AGREEMENT TO MAKE COPAYMENTS		
Completion of this form with signature of the Veteran or veteran's representative is certification that the veteran/representative has received a copy of the Privacy Act Statement and agrees to make appropriate copayments.		
I certify the foregoing statement(s) are true and correct to the best of my knowledge and belief and agree to make the applicable copayment for extended care services as required by law.		
SIGNATURE	DATE	
SECTION X- PAPERWORK PRIVACY ACT INFORMATION		
<p>The Paperwork Reduction Act of 1995 requires us to notify you that this information collection is in accordance with the clearance requirements of section 3507 of the Paperwork Reduction Act of 1995. We may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a valid OMB number. We anticipate that the time expended by all individuals who must complete this form will average 90 minutes. This includes the time it will take to read instructions, gather the necessary facts and fill out the form. If you have comments regarding this burden estimate or any other aspect of this collection, call 202.273.8247 for mailing information on where to send your comments.</p>		
<p>Privacy Act Information: The VA is asking you to provide the information on this form under Title 38, United States Code, sections 1710, 1712, 1722 and 1729 in order for VA to determine your eligibility for extended care benefits and to establish financial eligibility, if applicable, when placed in extended care services. The information you supply may be verified through a computer-matching program. VA may disclose the information that you put on the form as permitted by law. VA may make a "routine use" disclosure of the information as outlined in the Privacy Act systems of records notices and in accordance with the VHA Notice of Privacy Practices. You do not have to provide the information to VA, but if you don't, VA will be unable to process your request and serve your medical needs. Failure to furnish the information will not have any affect on any other benefits to which you may be entitled. If you provide VA your Social Security Number, VA will use it to administer your VA benefits. VA may also use this information to identify veterans and persons claiming or receiving VA benefits and their records, and for other purposes authorized or required by law.</p>		
ADDITIONAL COMMENTS:		

* * * * *

(Authority: 38 U.S.C. 101(28), 501, 1701(7), 1710, 1710B, 1720B, 1720D, 1722A)

[FR Doc. 04-14798 Filed 6-30-04; 8:45 am]

BILLING CODE 8320-01-C

POSTAL SERVICE

39 CFR Part 265

Release of Information, Privacy of Information

AGENCY: Postal Service.

ACTION: Corrected final rule.

SUMMARY: This rule amends the Postal Service regulations on the release of information to correct errors in two

exhibits contained in a previous document.

EFFECTIVE DATE: July 1, 2004.

FOR FURTHER INFORMATION CONTACT: Jane Eyre at 202-268-2608.

SUPPLEMENTARY INFORMATION: On June 23, 2004, the Postal Service published a document amending its rules dealing with records and information (69 FR 34932). Inspection of the notice disclosed the presence of minor errors in two exhibits in 39 CFR part 265. Accordingly, the Postal Service makes the following corrections effective immediately.

List of Subjects in 39 CFR Part 265

Administrative practice and procedure, Courts, Freedom of information, Government employees.

PART 265—[AMENDED]

■ 1. The authority citation for part 265 continues to read as follows:

Authority: 5 U.S.C. 552; 5 U.S.C. App. 3; 39 U.S.C. 401, 403, 410, 1001, 2601.

* * * * *

§ 265.6 [Amended]

■ 2. In § 265.6, following paragraph (g), remove the exhibits and insert the two forms as set forth below:

§ 265.6 Availability of records.

* * * * *

(g) * * *

BILLING CODE 7710-12-P