

multiple myelomas and lymphomas to be significant, if indirect, evidence of an association. Therefore, the Secretary concludes that the credible evidence for an association between exposure to an herbicide agent and the occurrence of AL amyloidosis in humans outweighs the credible evidence against such an association. Accordingly, the Secretary has determined that a presumption of service connection for AL amyloidosis is warranted pursuant to 38 U.S.C. 1116(b).

This proposed rule does not reflect determinations concerning any disease other than AL amyloidosis. The Secretary's determinations concerning other diseases discussed in the Update 2006 report will be addressed in future documents published in the **Federal Register**.

#### *Paperwork Reduction Act*

This document contains no 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 proposed 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 proposed rule would not affect any small entities. Only VA beneficiaries could be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), this proposed rule is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

#### *Executive Order 12866*

Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The Executive Order classifies a "significant regulatory action," requiring review by the Office of Management and Budget (OMB), as any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of

entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

The economic, interagency, budgetary, legal, and policy implications of this proposed rule have been examined and it has been determined to be a significant regulatory action under the Executive Order because it is likely to result in a rule that may raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

#### *Unfunded Mandates*

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more (adjusted annually for inflation) in any year. This proposed rule would have no such effect on State, local, and tribal governments, or on the private sector.

#### *Catalog of Federal Domestic Assistance Numbers and Titles*

The Catalog of Federal Domestic Assistance program numbers and titles for this proposed rule are 64.109, Veterans Compensation for Service-Connected Disability, and 64.110, Veterans Dependency and Indemnity Compensation for Service-Connected Death.

#### **List of Subjects in 38 CFR Part 3**

Administrative practice and procedure, Claims, Disability benefits, Health care, Veterans, Vietnam.

Approved: September 30, 2008.

**Gordon H. Mansfield,**

*Deputy Secretary of Veterans Affairs.*

For the reasons set out in the preamble, VA proposes to amend 38 CFR part 3 as follows:

### **PART 3—ADJUDICATION**

#### **Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation**

1. The authority citation for part 3, subpart A continues to read as follows:

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

#### **§ 3.309 [Amended]**

2. In § 3.309(e) the listing of diseases is amended by adding "AL

amyloidosis" immediately preceding "Chloracne or other acneform disease consistent with chloracne."

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### **DEPARTMENT OF VETERANS AFFAIRS**

#### **38 CFR Part 17**

RIN 2900–AM81

#### **Elimination of Co-Payment for Weight Management Counseling**

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Withdrawal of proposed rule.

**SUMMARY:** The Department of Veterans Affairs (VA) is withdrawing VA's proposal published in the **Federal Register** at 73 FR 20579 on April 16, 2008, to amend our medical regulations to designate weight management counseling (individual and group sessions) as a service that is not subject to VA's co-payment requirements. VA received no significant adverse comments concerning the proposed rule or its companion substantially identical direct final rule published on the same date. In a companion document in this issue of the **Federal Register**, we are confirming that the direct final rule became effective on June 16, 2008. Accordingly, this document withdraws as unnecessary the proposed rule.

#### **FOR FURTHER INFORMATION CONTACT:**

Tony Guagliardo, Director, Business Policy, Chief Business Office (16), Veterans Health Administration, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 461–1591 (this is not a toll-free number).

Approved: October 27, 2008.

**Gordon H. Mansfield,**

*Deputy Secretary of Veterans Affairs.*

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