

Veterans' Service Officer (CVSO) may become accredited through a recognized State organization. The rule was published with an effective date of February 21, 2017.

VA bases this action on the memorandum of January 20, 2017 (82 FR 8346), from the Assistant to the President and Chief of Staff, entitled "Regulatory Freeze Pending Review" (White House memorandum). That memorandum directed the heads of Executive Departments and Agencies to temporarily postpone for 60 days from the date of the memorandum the effective dates of all regulations that had been published in the **Federal Register** but had not yet taken effect, for the purpose of "reviewing questions of fact, law, and policy they raise." VA, therefore, is revising the effective date of the rule that published on January 19, 2017 (82 FR 6265), to March 21, 2017.

To the extent that 5 U.S.C. 553 applies to this action, it is exempt from notice and comment because it constitutes a rule of procedure under 5 U.S.C. 553(b)(A). Alternatively, VA's implementation of this action without opportunity for public comment, effective immediately upon publication today in the **Federal Register**, is based on the good cause exceptions in 5 U.S.C. 553(b)(B) and (d)(3). Seeking public comment is impracticable, unnecessary, and contrary to the public interest. The temporary delay in the effective date until March 21, 2017, is necessary to give VA officials the opportunity for further review and consideration of the new regulation, consistent with the White House memorandum. Given the imminence of the effective date, the brief length of the extension, and the public's full opportunity to comment prior to the publishing of the final rule, seeking public comment on this temporary delay would have been impracticable, as well as contrary to the public interest in the orderly promulgation and implementation of regulations. VA also believes that further delay, beyond what is required by the White House memorandum, would cause undue inconvenience to the affected entities.

#### Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Gina S. Farrisee, Deputy Chief of Staff, Department of Veterans Affairs, approved this document on February 15, 2017, for publication.

Approved: February 15, 2017.

**Jeffrey Martin,**

*Office Program Manager, Office of Regulation Policy & Management, Office of the Secretary, Department of Veterans Affairs.*

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## DEPARTMENT OF VETERANS AFFAIRS

### 38 CFR Part 17

**RIN 2900-AP94**

#### Fertility Counseling and Treatment for Certain Veterans and Spouses, Correction

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Interim final rule; correcting amendment.

**SUMMARY:** The Department of Veterans Affairs published in the **Federal Register** on January 19, 2017, an interim final rulemaking adding a new section authorizing in vitro fertilization (IVF) for a veteran with a service-connected disability that results in the inability of the veteran to procreate without the use of fertility treatment. In addition, we added a new section authorizing VA to provide fertility counseling and treatment using assisted reproductive technologies (ART), including IVF, to a spouse of a veteran with a service-connected disability that results in the inability of the veteran to procreate without the use of fertility treatment. These sections contain an error regarding the expiration date VA's authority to provide health care services. This document corrects the errors and does not make any substantive change to the content of the interim final rule.

**DATES:** *Effective:* February 21, 2017.

#### FOR FURTHER INFORMATION CONTACT:

Patricia M. Hayes, Ph.D. Chief Consultant, Women's Health Services, Patient Care Services, Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Ave. NW., Washington, DC 20420. (202) 461-0373. (This is not a toll-free number.)

**SUPPLEMENTARY INFORMATION:** VA published an interim final rule at 82 FR 6275 (January 19, 2017) that implemented section 260 of the Continuing Appropriations and Military Construction, Veterans Affairs, and Related Agencies Appropriations Act, 2017, and Zika Response and Preparedness Act (Pub. L. 114-223) as it pertains to fertility counseling and treatment for certain veterans and spouses. This law states that VA may

use appropriated funds available to VA for the Medical Services account to provide fertility counseling and treatment using assisted reproductive technology (ART) to a veteran with a service-connected disability that results in the inability of the veteran to procreate without the use of fertility treatment, and to the spouse of such veteran. The ART treatments referred to in this law are those relating to reproductive assistance provided to a member of the Armed Forces who incurs a serious injury or illness on active duty pursuant to title 10 of the United States Code (U.S.C.) section 1074(c)(4)(A), as described in a policy memorandum issued by the Assistant Secretary of Defense for Health Affairs on April 3, 2012, titled "Policy for Assisted Reproductive Services for the Benefit of Seriously or Severely Ill/Injured (Category II or III) Active Duty Service Members," and the guidance issued to implement such policy, including any limitations on the amount of benefits available to each eligible member.

VA added new § 17.380 which states that IVF may be provided when clinically appropriate to a veteran who has a service-connected disability that results in the inability of the veteran to procreate without the use of fertility treatment, as well as a spouse of such veteran. IVF services available to such veterans are the same as those provided by DoD to a member of the Armed Forces who incurs a serious injury or illness on active duty pursuant to 10 U.S.C. 1074(c)(4)(A), as described in DoD policy guidance, including any limitations on the amount of such benefits available to such a member. Fertility counseling and treatment other than IVF is available to veterans as part of the medical benefits package at § 17.38.

We also added new § 17.412 which states that VA may provide fertility counseling and treatment using ART to a spouse of a veteran with a service-connected disability that results in the inability of the veteran to procreate without the use of fertility treatment to the extent such services are available to enrolled veterans under the medical benefits package. It also states that VA may provide IVF to a spouse of a veteran with a service-connected disability that results in the inability of the veteran to procreate without the use of fertility treatment. Such health care services may be provided when clinically appropriate and consistent with the benefits relating to reproductive assistance provided to a member of the Armed Forces who incurs a serious injury or illness on

active duty as described in DoD policy guidance.

In paragraph (b) of both §§ 17.380 and 17.412 we incorrectly stated that authority to provide health care services under these sections expires on September 30, 2017, the end of fiscal year 2017. In this correction, we amend both paragraphs to reflect that authority to provide health care services under these sections expires on September 30, 2018.

#### Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Gina S. Farrisee, Deputy Chief of Staff, Department of Veterans Affairs, approved this document on February 15, 2017, for publication.

#### List of Subjects in 38 CFR Part 17

Administrative practice and procedure, Alcohol abuse, Alcoholism, Claims, Day care, Dental health, Drug abuse, 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, Reporting and recordkeeping requirements, Travel and transportation expenses, Veterans.

Dated: February 15, 2017.

#### Janet Coleman,

Chief, Office of Regulation Policy & Management, Office of the Secretary, Department of Veterans Affairs.

For the reasons set out in the preamble, VA is correcting 38 CFR part 17 by making the following correcting amendments:

#### PART 17—MEDICAL

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

**Authority:** 38 U.S.C. 501, and as noted in specific sections.

Section 17.38 is also issued under 38 U.S.C. 101, 501, 1701, 1705, 1710, 1710A, 1721, 1722, 1782, and 1786.

Sections 17.380 and 17.412 are also issued under sec. 260, Public Law 114–223, 130 Stat. 857.

Section 17.415 is also issued under 38 U.S.C. 7301, 7304, 7402, and 7403.

Sections 17.640 and 17.647 are also issued under sec. 4, Public Law 114–2, 129 Stat. 30.

Sections 17.641 through 17.646 are also issued under 38 U.S.C. 501(a) and sec. 4, Public Law 114–2, 129 Stat. 30.

#### § 17.380 [Amended]

- 2. In § 17.380 paragraph (b), remove “2017” and add in its place “2018”.

#### § 17.412 [Amended]

- 3. In § 17.412 paragraph (b), remove “2017” and add in its place “2018”.

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### DEPARTMENT OF VETERANS AFFAIRS

#### 38 CFR Part 36

RIN 2900–AP95

#### Veterans Benefits Administration; Loan Guaranty: Technical Corrections

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Final rule; correcting amendment.

**SUMMARY:** On June 15, 2010, VA published a document in the **Federal Register** eliminating redundant provisions from its loan guaranty regulations following the implementation of a new electronic reporting system and redesignating the section numbers of these regulations. At that time, VA did not update cross-reference citations to conform to the redesignated sections. A subsequent notice updated some, but not all, cross-reference citations. VA is now updating the remaining non-substantive, cross-reference citations for clarity and accuracy.

**DATES:** This correction is effective on February 21, 2017.

**FOR FURTHER INFORMATION CONTACT:** Jeffrey F. London, Director, Loan Guaranty Service (26), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 632–8862. (This is not a toll-free number.)

**SUPPLEMENTARY INFORMATION:** On June 15, 2010, at 75 FR 33704, VA amended what had been the 36.4800 series of 38 CFR part 36 to eliminate redundant and obsolete regulations, found from 38 CFR 36.4800 through 36.4893, and redesignated those sections as CFR 36.4300 through 36.4393.

On October 22, 2010, at 75 FR 65238, VA amended the cross-references in the 36.4300 series to reflect the June 15, 2010, amendments. At that time, VA inadvertently failed to update a number of cross-references. Additionally, VA attempted to amend 38 CFR 36.4309(c)(1)(vii) to replace a reference to 36.4826 with a reference to 36.4326. However, VA erroneously cited paragraph (c)(1)(vi) as containing the

reference to 36.4826. Consequently, the Electronic Code of Federal Regulations, published by the Government Printing Office, could not implement the change, noting an “inaccurate amendatory instruction” at the bottom of 38 CFR 36.4309.

With this notice, VA is amending §§ 36.4309, 36.4322, 36.4335, and 36.4378, to correct the outdated cross-references to the 36.4800 series regulations.

#### Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Gina S. Farrisee, Deputy Chief of Staff, Department of Veterans Affairs, approved this document on February 15, 2017, for publication.

#### List of Subjects in 38 CFR Part 36

Condominiums, Housing, Individuals with disabilities, Loan programs—housing and community development, Loan programs—veterans, Manufactured homes, Mortgage insurance, Reporting and recordkeeping requirements, Veterans.

#### Correction

For the reasons discussed in the preamble, VA is amending 38 CFR part 36 with the following correcting amendments:

#### PART 36—LOAN GUARANTY

- 1. The authority citation for part 36 continues to read as follows:

**Authority:** 38 U.S.C. 501 and as otherwise noted.

#### § 36.4309 [Amended]

- 2. In § 36.4309, amend paragraph (c)(1)(vii) by removing “36.4826” and adding in its place “36.4326”.

#### § 36.4322 [Amended]

- 3. In § 36.4322, amend paragraphs (b)(2) and (3) by removing “38 CFR 36.4848” and adding in its place “38 CFR 36.4348”.

#### § 36.4335 [Amended]

- 4. Amend § 36.4335 by removing “§§ 36.4800 to 36.4880” and adding in its place “§§ 36.4300 to 36.4380”.
- 5. Revise the section heading for § 36.4378 to read as follows:

**§ 36.4378 Debits and credits to insurance account under § 36.4320.**

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