

DEPARTMENT OF THE TREASURY**Internal Revenue Service****26 CFR Part 57**

[TD 9881]

RIN 1545–BN57

Electronic Filing of the Report of Health Insurance Provider Information**AGENCY:** Internal Revenue Service (IRS), Treasury.**ACTION:** Final regulations.

SUMMARY: This document contains final regulations amending the Health Insurance Providers Fee regulations to require certain covered entities engaged in the business of providing health insurance for United States health risks to electronically file Form 8963, “Report of Health Insurance Provider Information.” These final regulations affect those entities.

DATES: *Effective Date.* These regulations are effective on November 13, 2019.

FOR FURTHER INFORMATION CONTACT: David Bergman, (202) 317–6845 (not a toll-free number).

SUPPLEMENTARY INFORMATION:**Background**

This document contains final regulations in Title 26 of the Code of Federal Regulations under section 9010 of the Patient Protection and Affordable Care Act (PPACA), Public Law 111–148, 124 Stat. 119 (2010), as amended by section 10905 of PPACA, and as further amended by section 1406 of the Health Care and Education Reconciliation Act of 2010, Public Law 111–152 (124 Stat. 1029 (2010)) (collectively, the Affordable Care Act or ACA). The final regulations provide guidance on the annual fee imposed on covered entities engaged in the business of providing health insurance for United States health risks, and affect persons engaged in the business of providing health insurance for United States health risks.

On December 9, 2016, the Treasury Department and the IRS published a notice of proposed rulemaking (REG–123829–16) in the **Federal Register**, 81 FR 89020, containing proposed regulations that would amend section 57.3(a)(2) of the Health Insurance Providers Fee regulations to provide that a covered entity (including a controlled group) reporting on a Form 8963 or corrected Form 8963 more than \$25 million in net premiums written must electronically file the forms after December 31, 2017. Forms 8963 reporting \$25 million or less in net premiums written are not required to be

electronically filed. The proposed regulations also provided that if a Form 8963 or corrected Form 8963 is required to be filed electronically, any subsequent Form 8963 filed for the same fee year must also be filed electronically, even if the subsequently filed Form 8963 reports \$25 million or less in net premiums written. In addition, the proposed regulations provided that a failure to electronically file would be treated as a failure to file for purposes of section 57.3(b).

No comments were received in response to the notice of proposed rulemaking. No public hearing was requested or held. This Treasury Decision adopts the proposed regulations with no substantive change other than the applicability date. The rationale provided in the Explanation of Provisions section of the notice of proposed rulemaking applies equally to these final regulations. The electronic filing requirement will begin in the 2020 fee year because the fee will not be collected in 2019.

Special Analyses

This regulation is not subject to review under section 6(b) of Executive Order 12866 pursuant to the Memorandum of Agreement (April 11, 2018) between the Department of the Treasury and the Office of Management and Budget regarding review of tax regulations. It is hereby certified that the electronic filing requirement would not have a significant economic impact on a substantial number of small entities pursuant to the Regulatory Flexibility Act (5 U.S.C. chapter 6). The rule is expected to affect primarily larger entities because the electronic filing requirement is only imposed if the filer must report more than \$25 million in net premiums. Small entities are unlikely to report more than \$25 million in net premiums, and the rule contains a specific exemption from the electronic reporting requirement for covered entities that report \$25 million or less in net premiums written. Accordingly, this rule will not have a significant economic impact on a substantial number of small entities.

Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking preceding these final regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on the impact on small business, and no comments were received.

Drafting Information

The principal author of these regulations is David Bergman of the

Office of the Associate Chief Counsel (Procedure and Administration).

List of Subjects in 26 CFR Part 57

Health insurance, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 57 is amended to read as follows:

PART 57—HEALTH INSURANCE PROVIDERS FEE

■ **Paragraph 1.** The authority citation for 26 CFR part 57 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

■ **Par. 2.** Section 57.3 is amended by revising paragraph (a)(2) to read as follows:

§ 57.3 Reporting requirements and associated penalties.

(a) * * *

(2) *Manner of reporting—(i) In general.* The IRS may provide rules in guidance published in the Internal Revenue Bulletin for the manner of reporting by a covered entity under this section, including rules for reporting by a designated entity on behalf of a controlled group that is treated as a single covered entity.

(ii) *Electronic Filing Required.* Any Form 8963 (including corrected forms) filed pursuant to paragraph (a)(1) of this section and reporting more than \$25 million in net premiums written must be filed electronically in accordance with the instructions to the form. If a Form 8963 or corrected Form 8963 is required to be filed electronically under this paragraph (a)(2)(ii), any subsequently filed Form 8963 filed for the same fee year must also be filed electronically. For purposes of § 57.3(b), any Form 8963 required to be filed electronically under this section will not be considered filed unless it is filed electronically.

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■ **Par. 3.** Section 57.10 is amended by revising the section heading, paragraph (a) and adding paragraph (c) to read as follows:

§ 57.10 Applicability date.

(a) Except as provided in paragraphs (b) and (c) of this section, §§ 57.1 through 57.9 apply to any fee that is due on or after September 30, 2014.

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(c) Section 57.3(a)(2)(ii) applies to Forms 8963, including corrected Forms 8963, filed after December 31, 2019.

Sunita Lough,

Deputy Commissioner for Services and Enforcement.

Approved: October 29, 2019.

David J. Kautter,

Assistant Secretary of the Treasury (Tax Policy).

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DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 17

RIN 2900-AQ54

Veterans Healing Veterans Medical Access and Scholarship Program

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: The Department of Veterans Affairs (VA) is amending its regulations that govern scholarships to certain health care professionals. This rulemaking implements the mandates of the VA MISSION Act of 2018 by establishing a pilot program to provide funding for the medical education of eligible veterans who are enrolled in covered medical schools.

DATES: This final rule is effective December 13, 2019.

FOR FURTHER INFORMATION CONTACT: Marjorie A. Bowman, MD, Chief Academic Affiliations Officer, Office of Academic Affiliations (10X1), U.S. Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, (202) 461-9490. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: In a document published in the **Federal Register** on May 21, 2019, VA published a proposed rule, which proposed to amend its regulations that govern scholarships to certain health care professionals. 84 FR 22990. VA provided a 60-day comment period, which ended on July 22, 2019. We received 7 comments on the proposed rule.

On June 6, 2018, section 304 of Public Law 115-182, the John S. McCain III, Daniel K. Akaka, and Samuel R. Johnson VA Maintaining Internal Systems and Strengthening Integrated Outside Networks Act of 2018, or the VA MISSION Act of 2018, established a pilot program that would provide funding for medical education to 18 eligible veterans who enroll in covered

medical schools. This is known as the Veterans Healing Veterans Medical Access and Scholarship Program (VHVMASP). For the VHVMASP, the VA MISSION Act of 2018 sets forth the eligibility criteria; the amount and types of available funding; established terms of an agreement to be entered into by the participant; as well as, the consequences for a breach in such agreement. This final rule establishes the regulations needed to carry out the VHVMASP. Immediately following title 38 of the Code of Federal Regulations (CFR) 17.612, we are adding a new undesignated center heading titled “Veterans Healing Veterans Medical Access and Scholarship Program” and add new §§ 17.613 through 17.618.

One commenter was in support of the proposed rule. The commenter stated that they commend the proposition of a program that allows those who have fought so selflessly for our country the opportunity to better themselves through education and then turn around and give back to fellow veterans. The commenter believes that the rule will not only be immensely powerful for the veterans that are able to have their medical education funded, but also for the large number of veterans that they will be able to help. We make no changes based on this comment.

Multiple commenters recommended that the program include more universities. In particular, a commenter stated that they understand that the pilot program is in its infancy, but recommends that more universities be included and more scholarships be granted as the program grows and progresses. Another commenter similarly stated that there needs to be more schools where the VHVMASP is provided since there is not even one covered school in every state that has a VA medical facility. This same commenter also stated that this is an amazing idea and maybe some other types of schooling should be included in the VHVMASP, such as law school and drug and alcohol training for counseling, as this is a big area of issues for veterans. Another commenter also stated that the program should not be limited to these six schools, but should be allowed to be available at any accredited medical school, for example, Harvard, Wisconsin, or the University of California at San Francisco. VA understands that the VHVMASP is limited. Section 304 of the VA MISSION Act of 2018 limits the VHVMASP to the nine covered medical schools and to provide funding specifically for medical education. VA does not have the authority to expand the program to additional medical schools or to expand

the program to degrees that do not lead to a medical education. We are not making any changes based on these comments.

Multiple commenters also raised concerns about the limitation that a veteran is only eligible if discharged within the past ten years. A commenter questioned why the proposed rule stated that the veterans need to have only been out of the military for no more than ten years. Another commenter suggested that VA should reconsider and drop the within ten-year requirement because this requirement serves veterans to no benefit except to limit and disqualify a number of veterans who would be interested in this program. This commenter stated that the program is already extremely limited because it is a pilot program and that there also seems to be no obvious benefit to VA except cutting out applicants for no good reason. The commenter added that if the limitation targeted older veterans less likely to complete the program it might be justifiable, but a requirement of having to have served within ten years does not target the age of the applicant. Also, an applicant could have been any age when retiring or being discharged from service. Lastly, the commenter stated that the limitation does not seem justified and should be reconsidered or VA should consider adding exceptions to this portion of the rule. Another commenter similarly stated that narrowing this program down to only veterans who have been out of the armed forces for a period of no less than ten years is a disservice to thousands of veterans. Several commenters stated that the current proposal allows a veteran out of the military for four years with a general discharge (or perhaps even a bad conduct discharge) to be eligible for this scholarship while a veteran with an honorable discharge who has been working as a nurse for ten years and wishes to take advantage of this program and go to medical school would not be eligible. The commenters indicated that at a minimum, there should be an exception to the ten-year rule for honorably discharged veterans or veterans should not be allowed to count time using the GI Bill or Vocational Rehabilitation against them (*i.e.*: if a veteran has been out of the military for 12 years but five years of that was spent using GI Bill or Vocational Rehabilitation, for this program VA should allow the veteran to subtract those five years from the 12). A commenter added that given that this scholarship is limited to two students per school, there is no burden to