

5. § 165.174 Safety Zone; Annual South Street Seaport New Year's Eve Fireworks Display, East River, New York.

6. § 165.175 Safety Zone; Annual South Street Seaport Memorial Day Fireworks Display, East River, New York.

7. § 165.178 Safety Zone; Annual North Hempstead Memorial Day Fireworks Display, Hempstead Harbor, New York.

Regulatory Evaluation

This final rule is not a significant regulatory action under section (f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. It has not been reviewed by the Office of Management and Budget under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this final rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This finding is based on the fact that this regulation is strictly administrative in nature and that the regulations have gone through notice and comment rulemaking while being added to the list of First Coast Guard District fireworks displays in 33 CFR 100.114.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard considered whether this final rule will have a significant economic impact on a substantial number of small entities. "small entities" include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

For reasons discussed in the Regulatory Evaluation above, the Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this final rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This final rule does not provide for a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*)

Federalism

The Coast Guard has analyzed this final rule under the principles and criteria contained in Executive Order

12612 and has determined that this final rule does not have sufficient implications for federalism to warrant the preparation of a Federalism Assessment.

Unfunded Mandates

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) [Pub. L. 104-4, 109 Stat. 48] requires Federal agencies to assess the effects of certain regulatory actions on State, local, and tribal governments, and the private sector. UMRA requires a written statement of economic and regulatory alternatives for rules that contain Federal mandates. A Federal mandate is a new or additional enforceable duty imposed on any State, local, or tribal government, or the private sector. If any Federal mandate causes those entities to spend, in the aggregate, \$100 million or more in any one year, the UMRA analysis is required. This final rule does not impose Federal mandates on any State, or tribal governments, or the private sector.

Environment

The Coast Guard considered the environmental impact of this final rule and concluded that under figure 2-1, paragraph 34(g), of Commandant Instruction M16475.1C, this final is categorically excluded from further environmental documentation. A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under ADDRESSES.

List of Subjects in 33 CFR part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

Regulation

For the reasons discussed in the preamble, the Coast guard amends 33 CFR part 165 as follows:

PART 165—[AMENDED]

1. The authority citation for part 165 continues to read as follows:

(Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05-1(g), 6.04-1, 6.04-6, 160.5; 49 CFR 1.46.

§ 165.161 [Removed]

2. Remove § 165.161.

§ 165.166 [Removed]

3. Remove § 165.166.

§ 165.167 [Removed]

4. Remove § 165.167.

§ 165.170 [Removed]

5. Remove § 165.170

§ 165.174 [Removed]

6. Remove § 165.174.

§ 165.175 [Removed]

7. Remove § 165.175.

§ 165.178 [Removed]

8. Remove § 165.178.

Dated: August 6, 1999.

R.E. Bennis,

Captain, U.S. Coast Guard, Captain of the Port, New York.

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DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 17

RIN 2900-AJ03

Reconsideration of Denied Claims

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document amends the Department of Veterans Affairs' "Medical" regulations by adding a new section to set forth reconsideration procedures regarding claims for benefits administered by the Veterans Health Administration. These procedures would not only allow for more reflective decisions at the local level but would also allow some disputes to be resolved without the need for further appeal to the Board of Veterans' Appeals.

DATES: Effective Date: August 17, 1999.

FOR FURTHER INFORMATION CONTACT: Troy L. Baxley, Health Administration Service (10C3), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington DC 20420, telephone (202) 273-8301. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: In a document published in the **Federal Register** on February 27, 1998 (63 FR 9990), we proposed to amend the "Medical" regulations (38 CFR part 17) by adding a new section to set forth reconsideration procedures regarding claims for benefits administered by the Veterans Health Administration (VHA). We provided a 60-day comment period, which ended April 28, 1998. We received comments from two sources.

Both commenters asserted that the VA person rendering a decision upon reconsideration should not be the same person who rendered the original decision. We agree and have delegated the authority for making the reconsideration decision to the immediate supervisor of the initial VA decision-maker.

One commenter asserted that under § 17.133(a) of the proposed rule, the examples provided are, indeed, examples and are not all inclusive. We agree. We have revised the text to more clearly emphasize that, unless other reconsideration procedures apply, the reconsideration procedures of this rule apply to VHA decisions that are appealable to the Board of Veterans' Appeals. Also, we have clarified the procedures to state that they do not apply to decisions made outside VHA, such as rating decisions made by the Veterans Benefits Administration and adopted by VHA for decisionmaking.

Paperwork Reduction Act of 1995

The Office of Management and Budget (OMB) has cleared the information collection and has assigned an OMB control number 2900-0600.

Regulatory Flexibility Act

The Secretary hereby certifies that the adoption of this final rule would not have a significant impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601-612. Although the adoption of the final rule could affect small businesses, it would not have a significant impact on any small business. Therefore, pursuant to 5 U.S.C. 605(b), the proposed rule is exempt from the initial and final regulatory flexibility analysis requirements of §§ 603 and 604.

There are no Catalog of Federal Domestic Assistance program numbers.

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 recordkeeping requirements, Scholarships and fellowships, Travel and transportation expenses, Veterans.

Approved: June 28, 1999.

Togo D. West, Jr.,

Secretary of Veterans Affairs.

For the reasons set forth in the preamble, 38 CFR part 17 is amended to read as follows:

PART 17—MEDICAL

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

Authority: 38 U.S.C. 501(a), 1721, unless otherwise noted.

2. In part 17, an undesignated center heading and § 17.133 are added to read as follows:

Reconsideration of Denied Claims

§ 17.133 Procedures.

(a) *Scope.* This section sets forth reconsideration procedures regarding claims for benefits administered by the Veterans Health Administration (VHA). These procedures apply to claims for VHA benefits regarding decisions that are appealable to the Board of Veterans' Appeals (e.g., reimbursement for non-VA care not authorized in advance, reimbursement for beneficiary travel expenses, reimbursement for home improvements or structural alterations, etc.). These procedures do not apply when other regulations providing reconsideration procedures do apply (this includes CHAMPVA (38 CFR 17.270 through 17.278) and spina bifida (38 CFR 17.904) and any other regulations that contain reconsideration procedures). Also, these procedures do not apply to decisions made outside of VHA, such as decisions made by the Veterans Benefits Administration and adopted by VHA for decisionmaking. These procedures are not mandatory, and a claimant may choose to appeal the denied claim to the Board of Veterans' Appeals pursuant to 38 U.S.C. 7105 without utilizing the provisions of this section. Submitting a request for reconsideration shall constitute a notice of disagreement for purposes of filing a timely notice of disagreement under 38 U.S.C. 7105(b).

(b) *Process.* An individual who disagrees with the initial decision denying the claim in whole or in part may obtain reconsideration under this section by submitting a reconsideration request in writing to the Director of the healthcare facility of jurisdiction within one year of the date of the initial decision. The reconsideration decision will be made by the immediate supervisor of the initial VA decision-maker. The request must state why it is concluded that the decision is in error and must include any new and relevant information not previously considered. Any request for reconsideration that does not identify the reason for the dispute will be returned to the sender without further consideration. The request for reconsideration may include a request for a meeting with the immediate supervisor of the initial VA decision-maker, the claimant, and the claimant's representative (if the claimant wishes to have a representative present). Such a meeting shall only be for the purpose of discussing the issues and shall not include formal procedures

(e.g., presentation, cross-examination of witnesses, etc.). The meeting will be taped and transcribed by VA if requested by the claimant and a copy of the transcription shall be provided to the claimant. After reviewing the matter, the immediate supervisor of the initial VA decision-maker shall issue a written decision that affirms, reverses, or modifies the initial decision.

Note to § 17.133: The final decision of the immediate supervisor of the initial VA decision-maker will inform the claimant of further appellate rights for an appeal to the Board of Veterans' Appeals.

(The Office of Management and Budget has approved the information collection requirements in this section under control number 2900-0600)

(Authority: 38 U.S.C. 511, 38 U.S.C. 7105)

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DEPARTMENT OF DEFENSE

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 21

RIN 2900-AJ40

Veterans Education: Increased Allowances for the Educational Assistance Test Program

AGENCIES: Department of Defense and Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: The law provides that rates of subsistence allowance and educational assistance payable under the Educational Assistance Test Program shall be adjusted annually by the Secretary of Defense based upon the average actual cost of attendance at public institutions of higher education in the twelve-month period since the rates were last adjusted. After consultation with the Department of Education, the Department of Defense has concluded that the rates for the 1998-99 academic year should be increased by 5% over the rates payable for the 1997-98 academic year. The regulations dealing with these rates are amended accordingly.

DATES: This rule is effective August 17, 1999.

FOR FURTHER INFORMATION CONTACT: William G. Susling, Jr., Education Advisor, Education Service, Veterans Benefits Administration, (202) 273-7187.

SUPPLEMENTARY INFORMATION: The law (10 U.S.C. 2145) provides that the Secretary of Defense shall adjust the