

(1) Fails to meet and maintain HQ USAFA/PL educational, military, character, or physical fitness standards.

(2) Fails to demonstrate adaptability and suitability for participation in USAFA educational, military, character, or physical training programs.

(3) Displays unsatisfactory conduct.

(4) Fails to meet statutory requirements for admission to the USAFA, for example:

(i) Marriage or acquiring legal dependents.

(ii) Medical disqualification.

(iii) Refusal to serve as a commissioned officer in the U.S. Armed Forces.

(5) Requests disenrollment.

(b) The HQ USAFA/PL commander may also disenroll a student when it is determined that the student's retention is not in the best interest of the Government.

(c) The military personnel flight (10 MSS/DPM) processes Regular Air Force members for reassignment if:

(1) They are disenrolled from the HQ USAFA/PL.

(2) They fail to obtain or accept an appointment to a U.S. Service Academy.

(d) The Air Force reassigns Air Force Reserve cadet candidates who are disenrolled from the HQ USAFA/PL or who fail to obtain or accept an appointment to a U.S. Service Academy in either of two ways under AFI 36-3208:

(1) Discharges them from the United States Air Force without any further military obligation if they were called to active duty solely to attend the HQ USAFA/PL.

(2) Releases them from active duty and reassigns them to the Air Force Reserve Personnel Center if they were released from Reserve units to attend the HQ USAFA/PL.

(e) The National Guard (Army or Air Force) releases cadet candidates from active duty and reassigns them to their State Adjutant General.

(f) The Air Force reassigns Regular and Reserve personnel from other Services back to their unit of origin to complete any prior service obligation if:

(1) They are disenrolled from the HQ USAFA/PL.

(2) They fail to obtain or accept an appointment to the USAFA.

#### **§ 903.9 Cadet records and reassignment forms.**

(a) Headquarters USAFA Cadet Personnel (HQ USAFA/DPY) maintains records of cadet candidates who enter the USAFA until they are commissioned or disenrolled.

(b) 10 MSS/DPM will send records of Regular Air Force personnel who enter

one of the other Service Academies to HQ Air Force Personnel Center (HQ AFPC) for processing.

#### **§ 903.10 Information collections, records, and forms or information management tools (IMTS).**

(a) Information Collections. No information collections are created by this publication.

(b) Records. Ensure that all records created as a result of processes prescribed in this publication are maintained in accordance with AFMAN 37-123, Management of Records, and disposed of in accordance with the Air Force Records Disposition Schedule (RDS) located at <https://webri.ms.amc.af.mil>.

(c) Forms or IMTs (Adopted and Prescribed).

(1) Adopted Forms or IMTs: AF IMT 847, Recommendation for Change of Publication. AF Form 1288, Application for Ready Reserve Assignment, AF Form 1786, Application for Appointment to the USAF Academy Under Quota Allotted to Enlisted Members of the Regular and Reserve Components of the Air Force, DD Form 4, Enlistment/Reenlistment Document—Armed Forces of the United States, DD Form 368, Request for Conditional Release, and DD Form 1966, Record of Military Processing—Armed Forces of the United States.

(2) Prescribed Forms or IMTs: No forms or IMTs are prescribed by this publication.

**Bao-Anh Trinh,**

*Air Force Federal Register Liaison Officer,  
Department of the Air Force.*

[FR Doc. E7-13250 Filed 7-11-07; 8:45 am]

**BILLING CODE 5001-05-P**

## **DEPARTMENT OF VETERANS AFFAIRS**

### **38 CFR Part 17**

#### **RIN 2900-AM40**

### **Provision of Hospital Care and Medical Services During Certain Disasters or Emergencies**

**AGENCY:** Department of Veterans Affairs (VA).

**ACTION:** Proposed rule.

**SUMMARY:** The Department of Veterans Affairs (VA) proposes to establish regulations regarding the provision of hospital care and medical services under the VA Emergency Preparedness Act of 2002 to individuals responding to, involved in, or otherwise affected by certain disasters or emergencies

(including individuals who otherwise do not have VA eligibility for such care and services).

**DATES:** *Comment Date:* Comments must be received on or before September 10, 2007.

**ADDRESSES:** Written comments may be submitted through <http://www.Regulations.gov>; by mail or hand-delivery to the Director, Regulations Management (00REG), Department of Veterans Affairs, 810 Vermont Ave., NW., Room 1068, Washington, DC 20420; or by fax to (202) 273-9026. Comments should indicate that they are submitted in response to "RIN 2900-AM40—Provision of Hospital Care and Medical Services During Certain Disasters or Emergencies." Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1063B, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call (202) 273-9515 for an appointment. In addition, during the comment period, comments may be viewed online in <http://www.Regulations.gov> through the Federal Docket Management System (FDMS).

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

Tony A. Guagliardo, Director, Business Policy, Chief Business Office (163), Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 254-0384. (This is not a toll free number.)

**SUPPLEMENTARY INFORMATION:** This document proposes to amend the VA "Medical" regulations in 38 CFR part 17 by adding a new § 17.86 and by making technical amendments in § 17.102. As indicated in paragraph (a) of proposed § 17.86, this proposed rule would implement the provisions of Public Law 107-287, the VA Emergency Preparedness Act of 2002, regarding hospital care and medical services provided to individuals responding to, involved in, or otherwise affected by certain disasters or emergencies (including individuals who otherwise do not have VA eligibility for such care and services). These provisions are codified as 38 U.S.C. 1785.

Paragraphs (b) and (c) of proposed § 17.86 would reflect the provisions of 38 U.S.C. 1785, which provide that during and immediately following a disaster or emergency VA may furnish hospital care and medical services to individuals (including those who otherwise do not have VA eligibility for such care and services) responding to, involved in, or otherwise affected by:

- A major disaster or emergency declared by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*) (“Stafford Act”), or

- A disaster or emergency in which the National Disaster Medical System established pursuant to section 2811(b) of the Public Health Service Act (42 U.S.C. 300hh–11(b)) is activated either by the Secretary of Health and Human Services under paragraph (3)(A) of that section or as otherwise authorized by law.

Paragraph (d) of proposed § 17.86 would define “hospital care” and “medical services” according to the existing definitions in 38 U.S.C. 1701(5) and 1701(6).

Under paragraph (e) of proposed § 17.86, charges for care and services furnished to an officer or employee of a department or agency of the United States (other than VA) or to a member of the Armed Forces would be calculated in accordance with the provisions of § 17.102(h). Section 1785 states that VA shall be reimbursed for the cost of any care or services furnished to an officer or employee of a department or agency of the United States (other than VA) or to a member of the Armed Forces at rates agreed upon based on the cost of the care or service provided. An established system for charging for care and services provided to beneficiaries of the Department of Defense or other Federal agencies is already in place in § 17.102(c), (e), and (h). The cost of such care is charged at rates agreed upon in a sharing agreement described in § 17.102(e), or pursuant to the cost-based system described in § 17.102(h). In accordance with § 17.102(h), which provides authority to periodically do so, the Office of Management and Budget (OMB) and VA have published a document in the “Notices” section of the **Federal Register** entitled “Cost-Based and Interagency Billing Rates for Medical Care or Services Provided by the Department of Veterans Affairs,” 70 FR 66,866–66,868 (November 3, 2005). If the head of another Federal agency or the Secretary of a branch of the Armed Forces seeks VA hospital care or medical services for an officer, employee, or member, this cost-based system is the agreed-upon method for calculating the cost of such care or service unless the care provided falls within an existing sharing agreement as described in § 17.102(e).

Section 1785 is silent regarding charges to other individuals (*i.e.*, other than the Federal officers or employees or members of the Armed Forces discussed in the immediately preceding

paragraph of this preamble) that are eligible for such care and services under section 1785 but would not otherwise be eligible for such care and services as VA beneficiaries. This issue is discussed in the legislative history of the VA Emergency Preparedness Act of 2002 in S. Rep. No. 107–229 (July 31, 2002), a report of the Senate Committee on Veterans’ Affairs. The report states, at 9: “[Section 1785] would also allow VA to receive reimbursement for the cost of services provided to employees of other Federal agencies or departments, to be credited to the facility that provided care. VA would not be required to charge other individuals for emergency care offered during a disaster.” The language of the statute, when considered with this legislative history, suggests that Congress did not intend to require VA to seek reimbursement for hospital care or medical services provided to other individuals during a covered disaster or emergency. However, in addition to the statutory language in section 1785, VA’s current appropriation act impacts the question of reimbursement for care provided to individuals who are not otherwise eligible for hospital care or medical services at VA expense.

VA appropriation acts (including the appropriation act for fiscal year 2006, Pub. L. 109–114) have historically included a provision stating (with certain exceptions) that no appropriated funds shall be available “for hospitalization or examination of any persons” (Pub. L. 109–114, sec. 204) unless reimbursement for such care is made to the medical services account at rates set by the Secretary. In the appropriation act for fiscal year 2006 there are three exceptions. The first exception is care provided to “beneficiaries entitled under the laws bestowing such benefits to veterans.” In this preamble we use the phrase “VA beneficiaries” to refer to individuals eligible for hospitalization and medical care under the laws bestowing those benefits to veterans. The other two exceptions are persons receiving care under 5 U.S.C. 7901–7904 (employee services) or under the Stafford Act. This means that unless there has been a Presidential declaration under the Stafford Act, VA must seek reimbursement for the hospital care and medical services provided under section 1785 to persons who are not VA beneficiaries.

Not all care authorized under 38 U.S.C. 1785 is provided under the Stafford Act. Section 1785 authorizes VA to provide care during a disaster or emergency declared under the Stafford Act or during activation of the National

Disaster Medical System (NDMS) pursuant to section 2811(b) of the Public Health Service Act. Activation of the NDMS may take place without a Presidential declaration of a major disaster or emergency, and in that case would be without a Stafford Act declaration. If the care provided to other individuals (*i.e.*, individuals other than the Federal officers or employees, members of the Armed Forces, or VA beneficiaries) does not fall under the Stafford Act (for example, if NDMS is activated without a Stafford Act declaration), the appropriation language referenced above compels VA to seek reimbursement for the care provided under 38 U.S.C. 1785 to individuals who are not otherwise eligible for hospital care or medical services at VA expense. Other than officers or employees of a non-VA department or agency of the United States, or members of the Armed Forces, those individuals would generally include, *e.g.*, an individual who is not a veteran or a veteran’s child, survivor, or dependent; an individual who is a veteran but who is not eligible for enrollment in the VA healthcare system under 38 U.S.C. 1705 and § 17.36; or an individual who is a veteran’s child, survivor, or dependent but who is not eligible for such care and services at VA expense under any laws regarding certain categories of those persons. Paragraph (e) of proposed § 17.86 would provide a process for billing such individuals (other than officers or employees of a non-VA department or agency of the United States, or members of the Armed Forces) pursuant to § 17.102(h).

Besides the situation where the care provided to such other individuals does not fall under the Stafford Act, situations arise where the care does fall under the Act but VA does not receive reimbursement from any other-than-VA Federal department or agency. In such situations, VA seeks reimbursement from the individual. This has been longstanding VA practice and we propose to incorporate this practice in paragraph (e) by stating that “[o]ther individuals who receive hospital care or medical services under this section are responsible for the cost of the hospital care or medical services when charges are mandated by Federal law (including applicable appropriation acts) or when the cost of care or services is not reimbursed by other-than-VA Federal departments or agencies.” (Emphasis added.)

Under paragraph (e) of proposed § 17.86, the charges would be calculated in accordance with the provisions of § 17.102(h). (This document proposes to make technical changes to update the

provisions of § 17.102(h) by removing “Cost Distribution Report”, a report which documented costs through September, 2004, and by adding, in its place, “Monthly Program Cost Report (MPCR)”, the report that VA currently uses for purposes of § 17.102(h). This document also proposes to make in § 17.102(h) clarifying technical changes in the description of the report’s contents regarding outpatient care. Changes that this document is proposing to make to § 17.102 for other reasons are described below in this preamble.) Paragraph (h) of § 17.102 provides a mechanism for charges to be based on the MPCR, which sets forth the actual basic costs and per diem rates by type of inpatient care, and actual basic costs and rates for outpatient care per visit or prescription filled, with additions based on:

- Factors for depreciation of buildings and equipment,
- Central Office overhead,
- Interest on capital investment, and
- Standard fringe benefit costs covering government employee retirement and disability costs.

The formula in § 17.102(h) provides an appropriate method for calculating charges for services provided under 38 U.S.C. 1785 during certain disasters or emergencies. As noted earlier, this formula is already used to charge for care to beneficiaries of the Department of Defense and other Federal agencies. It is also used to calculate charges for individuals who receive emergency hospital care or medical services on a humanitarian basis (38 U.S.C. 1784). Further, it is based on the cost of the care provided to non-otherwise-eligible beneficiaries, thereby ensuring that the medical services account is reimbursed for the cost of care provided, as required by the current appropriation act. The last sentence of paragraph (e) of proposed § 17.86 notes that VA would bill in accordance with § 17.102(h) “without applying the exception provided in the first paragraph of § 17.102.” The exception provided in the first paragraph of § 17.102 is a reference to the possible applicability of § 17.101, a regulation covering the collection or recovery by VA for medical care and services described in 38 U.S.C. 1729. The exception in the first sentence of § 17.102 would not be applicable in any situation where care is provided under section 1785, as veterans would be receiving hospital care and medical services pursuant to section 1785 rather than section 1729.

Paragraph (f) of proposed § 17.86 would clarify that VA may furnish care and services under § 17.86 to a veteran without regard to whether he or she is

enrolled in the VA healthcare system. Paragraph (f) would reflect the provisions of 38 U.S.C. 1785(c), which state that VA may furnish care and services under section 1785 to an individual who is a veteran without regard to whether the veteran is enrolled in the VA patient enrollment system under 38 U.S.C. 1705. Section 1785(c) concerns the relationship of section 1785 and certain already existing provisions of law. It clarifies the possible impact of section 1705(c)(1) on section 1785. A provision in section 1705(c)(1) states that VA may not provide hospital care or medical services to certain veterans under 38 U.S.C. 1710 (the statutory authorization that is a key basis for VA’s provision of hospital care and medical services to veterans through its medical benefits package) unless those veterans have enrolled in the system of patient enrollment mandated by section 1705(a). VA’s regulation at 38 CFR 17.36 reflects this requirement and states that except in limited circumstances, a veteran must be enrolled in the VA healthcare system as a condition for receiving hospital care and medical services provided through VA’s medical benefits package. The language in 38 U.S.C. 1705(c)(1) and the implementing regulations at 38 CFR 17.36, if the clarifying language in paragraph (c) had not been included in section 1785, could have led to an anomalous situation where VA would have been authorized to provide care to all individuals affected by a Presidentially-declared major disaster or emergency, or a disaster or emergency in which NDMS is activated, except certain veterans who were not previously enrolled for VA healthcare. Section 1785(c) addresses this unique situation, clarifying that a veteran is not ineligible for care or services under section 1785 merely because the veteran (either because his or her priority group is not eligible for enrollment at the time, or because he or she elected not to enroll for VA benefits) is not enrolled in the VA healthcare system.

This proposed rule would make a technical change to the existing regulations in § 17.102 regarding the authority to provide humanitarian care under 38 U.S.C. 1784. The current cross-reference to the regulation authorizing emergency hospital care on a humanitarian basis is incorrect. 38 CFR 17.102(b)(1) refers to care or services rendered as a humanitarian service “under § 17.43(c)(1).” There is no § 17.43(c)(1) in title 38 CFR. The cross-reference listed in § 17.102(b)(1) should be to § 17.43(b)(1), rather than to

§ 17.43(c)(1). The proposed rule reflects this technical correction. In addition, to conform to the provisions of new § 17.86, this proposed rule would amend § 17.102(h) by adding a reference to § 17.86.

#### 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 given year. This proposed rule would have no such effect on State, local, and tribal governments, or the private sector.

#### Paperwork Reduction Act of 1995

This document contains no provisions constituting a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521).

#### 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 OMB unless OMB waives such review, 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.

### Regulatory Flexibility Act

The Secretary hereby certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act. In addition to affecting individuals, this document would affect mainly large insurance companies. Further, where small entities would be involved, they would not be impacted significantly since an inconsequential portion of their business would be with VA. Accordingly, 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.

### Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance numbers and titles for the programs affected by this document are 64.005, Grants to States for the Construction of State Homes; 64.007, Blind Rehabilitation Centers; 64.008, Veterans Domiciliary Care; 64.009, Veterans Medical Care Benefits; 64.010, Veterans Nursing Home Care; 64.011, Veterans Dental Care; 64.012, Veterans Prescription Service; 64.013, Veterans Prosthetic Appliances; 64.014, Veterans State Domiciliary Care; 64.015, Veterans State Nursing Home Care; 64.016, Veterans State Hospital Care; 64.018, Sharing Specialized Medical Resources; 64.019, Veterans Rehabilitation Alcohol and Drug Dependence; and 64.022, Veterans Home Based Primary Care.

### 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: March 30, 2007.

**Gordon H. Mansfield,**

*Deputy Secretary of Veterans Affairs.*

For the reasons set forth in the preamble, the Department of Veterans Affairs proposes to amend 38 CFR part 17 as follows:

## PART 17—MEDICAL

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

**Authority:** 38 U.S.C. 501, 1721, and as noted in specific sections.

2. Add an undesignated center heading and § 17.86 to read as follows:

### Care During Certain Disasters and Emergencies

#### § 17.86 Provision of hospital care and medical services during certain disasters and emergencies under 38 U.S.C. 1785.

(a) This section sets forth regulations regarding the provision of hospital care and medical services under 38 U.S.C. 1785.

(b) During and immediately following a disaster or emergency referred to in paragraph (c) of this section, VA under 38 U.S.C. 1785 may furnish hospital care and medical services to individuals (including those who otherwise do not have VA eligibility for such care and services) responding to, involved in, or otherwise affected by that disaster or emergency.

(c) For purposes of this section, a “disaster” or “emergency” means:

(1) A major disaster or emergency declared by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) (“Stafford Act”); or

(2) A disaster or emergency in which the National Disaster Medical System established pursuant to section 2811(b) of the Public Health Service Act (42 U.S.C. 300hh–11 (b)) is activated either by the Secretary of Health and Human Services under paragraph (3)(A) of that section or as otherwise authorized by law.

(d) For purposes of paragraph (b) of this section, the terms “hospital care” and “medical services” have the meanings given such terms by 38 U.S.C. 1701(5) and 1701(6).

(e) Unless the cost of care is charged at rates agreed upon in a sharing agreement as described in § 17.102(e), the cost of hospital care and medical services provided under this section to an officer or employee of a department or agency of the United States (other than VA) or to a member of the Armed Forces shall be calculated in accordance with the provisions of § 17.102(c) and (h). Other individuals who receive hospital care or medical services under this section are responsible for the cost of the hospital care or medical services when charges are mandated by Federal law (including applicable appropriation acts) or when the cost of care or services is not reimbursed by other-than-VA Federal departments or agencies. When

individuals are responsible under this section for the cost of hospital care or medical services, VA will bill in the amounts calculated in accordance with the provisions of § 17.102(h), without applying the exception provided in the first paragraph of § 17.102.

(f) VA may furnish care and services under this section to a veteran without regard to whether that individual is enrolled in the VA healthcare system under 38 U.S.C. 1705 and § 17.36 of this part.

(Authority: 38 U.S.C. 501, 1785)

#### § 17.102 [Amended]

3. Amend § 17.102 by:

a. In paragraph (b)(1), removing “§ 17.43(c)(1)” and adding, in its place, “§ 17.43(b)(1)”.

b. In the first sentence of paragraph (h), adding “§ 17.86 and under” after “charges under”; removing “Cost Distribution Report” and adding, in its place, “Monthly Program Cost Report (MPCR)”; and removing “and outpatient visit” and adding, in its place, “, and actual basic costs and rates for outpatient care visits or prescriptions filled”.

c. In the fifth sentence of paragraph (h), removing “Cost Distribution Report” and adding, in its place, “MPCR”.

[FR Doc. E7–13278 Filed 7–11–07; 8:45 am]

BILLING CODE 8320–01–P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA–R04–OAR–2007–0359–200716; FRL–8338–8]

### Approval of Implementation Plans of Alabama: Clean Air Interstate Rule

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve a revision to the Alabama State Implementation Plan (SIP) submitted on March 7, 2007. This revision addresses the requirements of EPA's Clean Air Interstate Rule (CAIR), promulgated on May 12, 2005, and subsequently revised on April 28, 2006, and December 13, 2006. The Alabama Department of Environmental Management (ADEM) also previously submitted a final submittal dated June 16, 2006, which was subsequently updated in a prehearing request for parallel processing on November 16, 2006, to comply with EPA's revisions to the