

Library has selected the serial for its collections; (2) certain issues are missing from the collections (or previously deposited copies of such issues had been lost or damaged); and (3) the physical copies that were submitted for purposes of registration happened to be the precise issues that are needed to fill the gap in the collection. While this could theoretically happen, it does not happen often enough to justify the work and expense required on the part of both the claimant and the Office to submit and process physical copies within the Office.

For copyright owners, the rule will reduce the cost of seeking a registration by lowering the incremental cost of producing and mailing physical copies to the Office. It also provides them with certain benefits. When the Office registers a serial issue, the effective date of registration is the date that the Office received the application, filing fee, and deposit in proper form. As discussed above, when an applicant uploads a digital copy of the deposit to the electronic registration system, the Office typically receives the application, filing fee, and deposit on the same date. By comparison, as described above, when an applicant sends physical copies to the Office the deposit may arrive long after the date that the application and filing fee were received—thereby establishing a later effective date of registration. Moreover, if an applicant uploads a complete copy through the electronic registration system, the Office will retain a digital copy of the issue for twenty years.<sup>28</sup> Digital copies are much easier to track, store, and retrieve than physical copies. This is critical if the copyright owner or other interested parties need to obtain a copy of a particular issue for use in litigation or another purpose.

To be clear, copyright owners may continue to submit their deposits in a physical format if they wish to do so, and in such cases, one copy will be required instead of two.<sup>29</sup> For all of the reasons provided here, the Office strongly encourages applicants to upload copies to the electronic registration system, instead of sending them in a physical format.

This is a technical change to a “rule[] of agency . . . procedure [and] practice.”<sup>30</sup> By reducing the number of copies required for registering a single

issue of a serial publication, and by giving copyright owners the option of submitting their deposits either in digital or physical format, it does not harm the interests of any parties and eases the deposit burden for some applicants. Accordingly, the Office finds good cause for publishing this as a final rule without first issuing a notice of proposed rulemaking.<sup>31</sup>

**List of Subjects in 37 CFR Part 202**

Copyright, Preregistration and registration of claims to copyright.

**Final Regulations**

For the reasons set forth in the preamble, the Copyright Office amends 37 CFR part 202 as follows:

**PART 202—PREREGISTRATION AND REGISTRATION OF CLAIMS TO COPYRIGHT**

■ 1. The authority citation for part 202 continues to read as follows:

**Authority:** 17 U.S.C. 408(f), 702.

■ 2. Amend § 202.20 by revising paragraph (c)(2) introductory text and by adding paragraph (c)(2)(i)(N) to read as follows:

**§ 202.20 Deposit of copies and phonorecords for copyright registration.**

\* \* \* \* \*

(c) \* \* \*

(2) In the case of certain works, the special provisions set forth in this clause shall apply. In any case where this clause specifies that one copy or phonorecord may be submitted, that copy or phonorecord shall represent the best edition, or the work as first published, as set forth in paragraph (c)(1) of this section, unless stated otherwise.

(i) \* \* \*

(N) A single issue of a serial publication, for which the deposit may comply with the requirements set forth in paragraphs (b)(2)(iii)(B) or (c)(2)(i)(N)(1) or (2) of this section.

(1) If the issue was published in a physical format, the applicant may upload a digital copy to the electronic registration system provided that the following requirements have been met. The file must be submitted in Portable Document Format (PDF), it must be assembled in an orderly form, and it must be uploaded as one electronic file (i.e., not in a .zip file). The file must be viewable and searchable, contain embedded fonts, and be free from any access or copy restrictions (such as

those implemented through digital rights management) that prevent the viewing, storage, or examination of the issue. The file size for the upload must not exceed 500 megabytes, but the file may be compressed to comply with this requirement, consistent with instructions on the Office’s website. Applicants are encouraged to use the file-naming convention specified on the Copyright Office’s website.

(2) Alternatively, the applicant may submit a single physical copy of the issue. If the claim is submitted with the Standard Application, the copy must be accompanied by the required shipping slip generated by the electronic registration system, the shipping slip must be attached to the copy, the copy and the shipping slip must be included in the same package, and the package must be sent to the address specified on the shipping slip.

\* \* \* \* \*

Dated: June 27, 2022.

**Shira Perlmutter,**

*Register of Copyrights and Director of the U.S. Copyright Office.*

Approved by:

**Carla D. Hayden,**

*Librarian of Congress.*

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**BILLING CODE 1410–30–P**

**DEPARTMENT OF VETERANS AFFAIRS**

**38 CFR Parts 17 and 70**

**RIN 2900–AQ44**

**VHA Claims and Appeals Modernization**

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Final rule.

**SUMMARY:** The Department of Veterans Affairs (VA) is amending its regulations concerning its claims and appeals process governing various programs administered by the Veterans Health Administration (VHA). The Veterans Appeals Improvement and Modernization Act of 2017 (hereafter referred to as the AMA) amended the procedures applicable to administrative review and appeal of VA decisions on claims for benefits, creating a new, modernized review system. This amendment will sunset certain VHA regulations which are inconsistent with the AMA.

**DATES:** *Effective date:* This rule is effective August 22, 2022.

**FOR FURTHER INFORMATION CONTACT:** Erik Shepherd, Chief, VHA Claims and

<sup>28</sup> See Compendium 1510.1 (“Published deposit materials are currently stored for twenty years”).

<sup>29</sup> The rule also confirms that the copy must be sent in the same package with the shipping slip that is generated by the electronic system, as required by the current regulation.

<sup>30</sup> 5 U.S.C. 553(b)(A).

<sup>31</sup> See 5 U.S.C. 553(b)(B) (rules may be issued without notice of proposed rulemaking where the agency finds that an NPRM is “unnecessary, or contrary to the public interest”).

Appeals Modernization, Office of Regulations, Appeals, and Policy, Department of Veterans Affairs, 810 Vermont Ave. NW, Washington, DC 20420, (202) 450-7882 (This is not a toll-free number.).

**SUPPLEMENTARY INFORMATION:** In a document published in the **Federal Register** on February 21, 2020, VA published a proposed rule to revise 38 CFR 17.133, 17.276, 17.904, 17.1006, and 70.40 to make clear that VHA reconsideration is available only in legacy claims. VA also proposed to revise § 17.132 to clarify that appeal to the Board of Veterans' Appeals, as the sole avenue for disputing a VA decision regarding payment or reimbursement for care at a non-VA facility or by a non-VA provider, will apply only to payment decisions made for legacy claims. 85 FR 10118. VA provided a 60-day comment period, which ended on April 21, 2020. VA received six comments on the proposed rule. We adopt the proposed rule as final, with one technical change. The technical change removes the proposed amendments to 38 CFR 17.276 from this rulemaking for the reasons stated below.

Two comments expressed general support for VHA's adoption of processes contained in the AMA, but did not suggest any changes to the rule as proposed. To the extent that one comment indicated that the full potential has not yet been met for VHA appeals, and any opportunity to speed up the process should be considered and executed, VA has implemented the AMA as generally applicable to benefits administered throughout VA, to include benefits administered by VHA. The current rulemaking only addressed current VHA regulations that are inconsistent with the AMA and the VA Claim and Appeals Modernization regulatory amendments. As the proposed rule did not attempt to delineate any VHA specific appeals process updates, we believe that this portion of the comment is outside the scope of the proposed rulemaking. VA appreciates these comments and makes no changes based on these comments.

Two comments recommended that VA open new medical schools. Because the proposed rule sought to discontinue certain legacy processes associated with VA claims, and did not address other VA processes or more specifically the concept of VA establishing medical schools, these comments are beyond the scope of the proposed rule, and we make no changes based on these comments.

One comment alleged discrimination and referred to a Historically

Underutilized Business Zone (HUB Zone) appeal. Without more information in the comment to link the alleged discrimination to the proposed rule, we believe a general reference to a HUB Zone appeal is beyond the scope of the proposed rule that sought to discontinue certain legacy processes associated with VA claims. We therefore make no changes based on this comment.

Lastly, one comment encouraged VA to revise § 17.133 as proposed to add U.S. Department of Housing and Urban Development-VA Supportive Housing (HUD-VASH) Program benefits as an enumerated benefit subject to reconsideration under the legacy administrative processes. VA's proposed rule contemplated neither expansion, contraction, nor clarification of the benefits subject to the legacy administrative processes. Instead, the preamble to the proposed rule merely stated that reconsiderations would only be available to legacy appeals as the term legacy appeal is defined in parts 3 and 19 of title 38 of the Code of Federal Regulations. As the proposed rule did not attempt to define or clarify what is contemplated in the definition of legacy appeal, we believe that this comment is also outside the scope of the proposed rulemaking. VA is not making any changes based on this comment.

In a related rulemaking, RIN 2900-AP02, VA proposed changes to 38 CFR 17.276. See 83 FR 2396. RIN 2900-AP02 was finalized and published first and, as such, any changes to 38 CFR 17.276 are removed and included in RIN 2900-AP02. See 87 FR 41594. VA received no comments on the proposed changes to 38 CFR 17.276 in either rulemaking. Given that the changes proposed to 38 CFR 17.276 are now addressed by RIN 2900-AP02, any changes in the original proposed rule related to 38 CFR 17.276 are removed from this rulemaking.

#### **Executive Orders 12866, 13563**

Executive Orders 12866 and 13563 direct agencies to assess the 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 effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. The Office of Information and Regulatory Affairs has determined that this rule is not a significant regulatory action under

Executive Order 12866. The Regulatory Impact Analysis associated with this rulemaking can be found as a supporting document at [www.regulations.gov](http://www.regulations.gov).

#### **Regulatory Flexibility Act**

The Secretary hereby certifies that this 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 rule only affects procedures regarding the appeals process; it does not affect the cost of filing an appeal nor any amount duly owed to a small entity. Therefore, pursuant to 5 U.S.C. 605(b), the initial and final regulatory flexibility analysis requirements of 5 U.S.C. 603 and 604 do not apply.

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

#### **Paperwork Reduction Act**

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

#### **Assistance Listing**

The Assistance Listing numbers and titles for the programs affected by this document are 64.009—Veterans Medical Care Benefits; 64.039—CHAMPVA.

#### **Congressional Review Act**

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), the Office of Information and Regulatory Affairs designated this rule as not a major rule, as defined by 5 U.S.C. 804(2).

#### **List of Subjects in 38 CFR Parts 17 and 70**

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.

**Signing Authority**

Denis McDonough, Secretary of Veterans Affairs, approved this document on June 17, 2022, 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.

**Consuela Benjamin,**

*Regulations Development Coordinator, Office of Regulation Policy & Management, Office of General Counsel, Department of Veterans Affairs.*

For the reasons set out in the preamble, we amend 38 CFR parts 17 and 70 as set forth below:

**PART 17—MEDICAL**

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

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

\* \* \* \* \*

- 2. Amend § 17.132 by:

- a. Designating the undesignated paragraph as paragraph (b).
- b. Adding paragraph (a).  
The addition reads as follows:

**§ 17.132 Appeals.**

(a) This section applies only to legacy claims.

\* \* \* \* \*

- 3. Amend § 17.133 by revising paragraph (a) to read as follows:

**§ 17.133 Procedures.**

(a) *Scope.* This section sets forth reconsideration procedures regarding claims for benefits administered by the Veterans Health Administration (VHA). This section applies only to legacy claims.

\* \* \* \* \*

- 4. Amend § 17.904 by:

- a. Designating the undesignated paragraph as paragraph (b).
- b. Adding paragraph (a).  
The addition reads as follows:

**§ 17.904 Review and appeal process.**

(a) This section applies only to legacy claims.

\* \* \* \* \*

- 5. Amend § 17.1006 by revising the final sentence to read as follows:

**§ 17.1006 Decisionmakers.**

\* \* \* Any decision denying a benefit must be in writing and inform the claimant of VA appeal rights.

\* \* \* \* \*

**PART 70—VETERANS TRANSPORTATION PROGRAMS**

- 6. The authority citation for part 70 continues to read as follows:

**Authority:** 38 U.S.C. 101, 111, 111A, 501, 1701, 1714, 1720, 1728, 1782, 1783, and E.O. 11302, 31 FR 11741, 3 CFR, 1966–1970 Comp., p. 578, unless otherwise noted.

- 7. Amend § 70.40 by:

- a. Designating the undesignated paragraph as paragraph (b).
- b. Adding paragraph (a).  
The addition reads as follows:

**§ 70.40 Administrative procedures.**

(a) This section applies only to legacy claims.

\* \* \* \* \*

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**BILLING CODE 8320–01–P**