

Authority: 38 U.S.C. 3729, 38 CFR 36.4232 and § 36.4313.

Title: Create Payment Request for the VA Funding Fee (VA Form 26–8736a).

OMB Control Number: 2900–0253.

Type of Review: Extension of a currently approved collection.

Abstract: Section 3702(d) allows for certain lenders to make automatically guaranteed housing loans under 38 U.S.C. chapter 37. 38 U.S.C. 3702(d). Automatic lending privileges eliminate the requirement for submission of loans to VA for prior approval. Lending institutions with automatic loan privileges may process and disburse such loans and subsequently report the loan to the Department of Veterans Affairs (VA) for issuance of guaranty. Those lenders include (1) any Federal land bank, national bank, State bank, private bank, building and loan association, insurance company, credit union, or mortgage and loan company, that is subject to examination and supervision by an agency of the United States or of any State; (2) any State; or (3) any lender approved by the Secretary pursuant to standards established by the Secretary. Id. VA implemented those standards in 38 CFR 36.4352. VA refers to lenders described in 38 U.S.C. 3702(d)(1) and (2) as supervised lenders. See 38 CFR 36.4352(a). Unsupervised lenders are those described in 38 U.S.C. 3702(d)(3). See 38 CFR 36.4352(b). This collection addresses the underwriter requirements for those unsupervised lenders as found in 38 CFR 36.4352(b)(2) and (3).

Affected Public: Individuals and households.

Estimated Annual Burden: 500 hours.

Estimated Average Burden per Respondent: 20 minutes.

Frequency of Response: One time.

Estimated Number of Respondents: 1,500.

By direction of the Secretary.

Maribel Aponte,

VA PRA Clearance Officer, Office of Enterprise and Integration/Data Governance Analytics, Department of Veterans Affairs.

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DEPARTMENT OF VETERANS AFFAIRS

Notification, Cooperation and Affirmative Verification, or E-Verification, in Claims Arising Tort Liability and Third-Party Liability

AGENCY: Department of Veterans Affairs.
ACTION: Notice.

SUMMARY: The Department of Veterans Affairs (VA) sets forth the duties owed to VA when Veterans and VA beneficiaries who received medical care and treatment provided or paid for by VA, or those acting on their behalf, pursue personal injury claims.

DATES: This notification is effective upon publication.

FOR FURTHER INFORMATION CONTACT: Ms. Debra Vathauer, Office of Finance, Revenue Operations, Payer Relations and Services, Rates and Charges (104RO1), Veterans Health Administration, Department of Veterans Affairs, 128 Bingham Road, Suite 1000, Asheville, NC 28806; telephone: 608–335–8370 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: Under 38 U.S.C. 1729 and 42 U.S.C. 2651, VA has the right to recover or collect from a third party or parties the reasonable charges for certain medical care and treatment furnished, to be furnished, paid for or to be paid for by VA. Under 38 CFR 2.6(e)(3) and (e)(9), the authority of the Secretary of VA is delegated to VA's Office of General Counsel "to collect in full, compromise, settle, or waive any claim and execute the release thereof" for all claims arising under 42 U.S.C. 2651 and 38 U.S.C. 1729. See also 38 CFR 14.619. Based on this delegation, the authority under 28 CFR 43.1(b) and 43.2(a) and so VA can fulfill all statutory and regulatory requirements, all Veterans and Veterans' beneficiaries, or those individuals acting on their behalf, have a duty to:

(a) Furnish such information as may be requested concerning the circumstances giving rise to the injury or disease for which care and treatment is being given and concerning any action instituted or to be instituted by or against a third person;

(b) Notify VA of a settlement with or any offer of settlement from a third person; and

(c) Cooperate in the prosecution of all claims and actions by the United States against such third person.

These duties necessitate affirmative verification, or e-verification, to identify all Veterans, or Veterans' beneficiaries, who may exist within any member class including class action lawsuits, multi-district litigation or other similar mass tort litigation.

Under 38 CFR 17.47(g)(2), VA requires the completion and submission of the billing request form provided at <https://www.va.gov/ogc/collections.asp>. For verification questions in connection with mass litigation cases, please contact OGCCollectionsNationalPracticeGroupMassTorts@va.gov. For questions on all other cases, please visit <https://www.va.gov/ogc/collections.asp>.

Please note that any materially false, fictitious or fraudulent statements, representations or omissions are subject to criminal penalties including fines and/or imprisonment. See 18 U.S.C. 287, 1001. Also, please note that failure to properly notify and pay VA could implicate the False Claims Act (FCA), 31 U.S.C. 3729–33, prompt payment requirements, and insurance regulations. It also could result in the payment of attorneys' fees, fines for each violation and treble damages up to the prescriptive statute of limitations period. In particular, section 3729(a)(1)(G) of the FCA, the reverse false claims provision provides liability where one conspires or acts improperly to avoid an obligation to pay the Federal Government. Moreover, FCA also provides for liability where one is in possession of money or property belonging to the Federal Government and fails to transmit that money or property to the Federal Government. 31 U.S.C. 3729(a)(1)(D). In addition to FCA, VA may refer the payment obligation to the United States Department of the Treasury for collection. See 31 U.S.C. 3711 *et seq.*; 38 CFR 17.106(c)(3).

Signing Authority

Denis McDonough, Secretary of Veterans Affairs, approved this document on February 2, 2023, 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.

Jeffrey M. Martin,

Assistant Director, Office of Regulation Policy & Management, Office of General Counsel, Department of Veterans Affairs.

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