

consultative visit if major changes in working conditions or work processes occur which may introduce new hazards, OSHA's Programmed Inspections at that particular site may be deferred while the employer is working to achieve recognition and exemption status.

(B) Employers who meet all the requirements for recognition and exemption will have the names of their establishments removed from OSHA's Programmed Inspection Schedule for a period of one year. The exemption period will extend from the date of issuance by the Regional Office of the certificate of recognition. OSHA may in its discretion establish inspection programs that provide for an additional deletion period, but such additional deletion period shall not exceed one year.

(ii) *Inspections.* OSHA will continue to make inspections in the following categories at sites that achieved recognition status and have been granted deletions from OSHA's Programmed Inspection Schedule; and at sites granted inspection deferrals as provided for under paragraph (b)(4)(i)(A) of this section:

(A) Imminent danger inspections;

(B) Fatality/catastrophe inspections;

(C) Complaint inspections;

(D) Referral inspections as determined necessary by the RA;

(E) Other critical inspections as determined by the Assistant Secretary.

* * * * *

[FR Doc. 2010-22058 Filed 9-2-10; 8:45 am]

BILLING CODE 4510-26-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG-2010-0265]

RIN 1625-AA09

Drawbridge Operation Regulations; Curtis Creek, Baltimore, MD

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking; withdrawal.

SUMMARY: The Coast Guard is withdrawing its notice of proposed rulemaking concerning the operation of the Pennington Avenue Bridge, at mile 0.9, across Curtis Creek at Baltimore, MD. The requested change would have allowed the bridge to operate from a remote location at the City of Baltimore Transportation Management Center. The

proposed rule is being withdrawn because of the many concerned comments sent from the primary waterway users that transit the bridge.

DATES: The notice of proposed rulemaking is withdrawn on September 3, 2010.

ADDRESSES: The docket for this withdrawn rulemaking is available for inspection or copying at the Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet by going to <http://www.regulations.gov>, inserting USCG-2010-0265 in the "Keyword" box and then clicking "Search".

FOR FURTHER INFORMATION CONTACT: If you have questions about this notice, call or e-mail Lindsey Middleton, Fifth Coast Guard District; telephone (757) 398-6629, e-mail Lindsey.R.Middleton@uscg.mil. If you have questions on viewing material in the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:

Background

On June 2, 2010, we published an NPRM entitled "Drawbridge Operation Regulation Curtis Creek, Baltimore, MD" in the **Federal Register** (75 FR 30747-30750). The rulemaking concerned eliminating the need for a bridge tender by allowing the bridge to be operated from a remote location at the City of Baltimore Transportation Management Center. This proposed change would have maintained the bridge's current operating schedule set forth in 33 CFR 117.5 that states: Drawbridges shall open promptly and fully for the passage of vessels when a request to open is given.

Withdrawal

The City of Baltimore, the owner of the Pennington Avenue Bridge, had requested a change in the operating procedures to allow the bridge to be opened from a remote location at the City of Baltimore Transportation Management Center.

The Coast Guard received several comments opposing the proposed rule change. We conducted a lengthy and thorough investigation that included a site visit of the bridge and the Baltimore City Transportation Management Center. We also conducted a meeting at the Coast Guard Yard in Baltimore, MD with the primary waterway users that

transit the bridge, staff from the City of Baltimore's Transportation division, and their contracted consulting company.

Our investigation along with the majority of the comments revealed that the rulemaking could impose critical service delays to the various industries that rely on a timely bridge opening. This withdrawal is based on the reason that this change would not improve the bridge usage for roadway and waterway users.

Authority: This action is taken under the authority of 33 U.S.C. 499; 33 CFR 1.05-1; Department of Homeland Security Delegation No. 0170.1.

Dated: August 15, 2010,

William D. Lee,

Rear Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. 2010-22034 Filed 9-2-10; 8:45 am]

BILLING CODE 9110-04-P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 76

RIN 2900-AN43

U.S. Paralympics Monthly Assistance Allowance

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: This document proposes to establish regulations for the payment of a monthly assistance allowance to military veterans training to make the United States Paralympics team, as authorized by section 703 of the Veterans' Benefits Improvement Act of 2008. The proposed rule would facilitate the payment of a monthly assistance allowance to a veteran with a service-connected or nonservice-connected disability if the veteran is competing for a slot on or selected for the United States Paralympics team or is residing at a United States Paralympics training center. The proposed rule would require submission of an application to establish eligibility for the allowance and certification by the United States Paralympics.

DATES: Comments must be received on or before October 4, 2010.

ADDRESSES: Written comments may be submitted through <http://www.Regulations.gov>; by mail or hand-delivery to Director, Regulations Management (02REG), 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-

AN43—U.S. Paralympics Monthly Assistance Allowance.” 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) 461-4902 for an appointment. (This is not a toll-free number.) In addition, during the comment period, comments are available online through the Federal Docket Management System (FDMS) at <http://www.Regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Matt Bristol, Office of National Veterans Sports Programs and Special Events (002C), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420; (202) 461-7447. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: In 2008, Congress amended title 38, United States Code, to add a new section 322 regarding establishment of the Department of Veterans Affairs (VA) Office of National Veterans Sports Programs and Special Events. Public Law 110-389, sec. 703. Subject to the availability of appropriations, Congress authorized VA to provide certain disabled veterans, who participate in programs or events sanctioned by the United States Paralympics (USP) or who reside at a USP training center, a monthly assistance allowance. 38 U.S.C. 322. VA proposes to amend its regulations to implement the allowance.

Under section 322, VA may provide an allowance to a veteran with a disability who is: (1) Invited by the USP to compete for a slot on, or selected for, the USP Team, for any month or part of any month in which the veteran is training or competing in any event sponsored by the USP or the International Paralympic Committee (IPC); or (2) residing at a USP training center in connection with any paralympic training or competition. The USP estimates that up to 70 veterans may qualify for this allowance annually.

We propose to implement the allowance in new 38 CFR part 76. Although section 322(d) authorizes VA to pay the allowance to a veteran with a disability invited by the “United States Paralympics, Inc.,” to compete for a slot on, or selected for, the Paralympic Team, that entity is now designated as the “United States Paralympics,” and is a division of the United States Olympic Committee (USOC). Accordingly, we propose to refer to the USP, rather than the United States Paralympics, Inc.

The proposed rule would include certain terms that must be defined for the purposes of part 76. In proposed

§ 76.1(a), we would define the term “disability” to mean “a service-connected or nonservice-connected disability, which meets the criteria prescribed by the IPC’s Classification Code and International Standards, November 2007 edition, available at http://www.paralympic.org/export/sites/default/IPC/IPC_Handbook/Section_2/2008_2_Classification_Code6.pdf, and qualifies the veteran for participation in a sport sanctioned by the United States Paralympics.” This document will be made available to the public via a VA-controlled source for purposes of the final rule, and this definition may be changed accordingly. This definition would be based on VA’s authority in section 322(d) to pay the allowance “to a veteran with a disability,” which we interpret to mean a veteran with a service-connected or nonservice-connected disability. In section 322(d)(3) Congress required VA to give priority to veterans with service-connected disabilities in providing the allowance. By setting up a priority in payment, Congress demonstrated its intent to allow veterans with both service-connected and nonservice-connected disabilities to qualify for the allowance if funding is available.

As stated previously, section 322(d) authorizes VA to “provide a monthly assistance allowance to a veteran with a disability invited by the [USP] to compete for a slot on, or selected for, the Paralympic Team for any month in which the veteran is training or competing in any event sanctioned by the [USP], or who is residing at a [USP] training center.” In selecting individuals for international competition, USP must ensure competitors’ compliance with the IPC Code and Standards because most individuals selected to compete for a slot on, or selected for, the Paralympic Team, which is associated with the USP, will ultimately compete internationally. Therefore, we propose to pay the allowance to those veterans with disabilities that meet IPC criteria.

We propose to define the term “Paralympic Training Center” as referring to the following locations: the United States Olympic Training Center at Chula Vista, California; the United States Olympic Training Center at Colorado Springs, Colorado; the United States Olympic Training Center at Lake Placid, New York; the Lakeshore Foundation in Birmingham, Alabama; and the University of Central Oklahoma in Edmond, Oklahoma.

As stated previously, section 322(d)(3) requires VA to give priority in payment of the allowance to veterans with service-connected disabilities. We propose to periodically assess funding

levels to determine if funding for payment of the allowance will be sufficient to cover all applicants. Based on the estimated 70 veterans that may qualify for the allowance annually and the appropriated \$2,000,000 in funding, VA believes it will be able to pay all applicants. If a periodic assessment reveals that funding for the allowance will be insufficient to pay all applicants, we propose to make payments in full first to veterans with service-connected disabilities.

Section 322(d) authorizes funding for the allowance beginning in fiscal year 2010, or beginning October 1, 2009. Because funding has been available from October 1, 2009, we propose to allow retroactive payment for paralympic training, competition, or residence that occurred on or after October 1, 2009, if an application and appropriate certification are submitted to VA within 1 year of the effective date of this regulation. Based on the number of applications received from individuals with both service-connected and nonservice-connected disabilities within the first year, we will determine if funding for payment of the allowance for fiscal year 2010 is sufficient to pay fully all eligible applicants. If funding is insufficient to pay all eligible applicants, we propose to first pay those eligible applicants with service-connected disabilities. To the extent funds remain to pay eligible applicants with nonservice-connected disabilities, we will make payments in the order of receipt of applications. We believe this is the most equitable method for making retroactive payments to nonservice-connected veterans in case of limited funds.

To allow for effective administration of payments of the allowance, and to ensure that veterans who are entitled to the allowance are accurately and timely paid, we propose to require qualifying veterans to submit an application with information pertinent to payment, including information pertaining to dependents, who may justify a higher rate of allowance. We also propose to require certification from the USP of participation in training or competition sponsored by the USP or the IPC, or residence at a USP Training Center. Such certification shall specify the dates of training, competition, or residence for which payment is requested so that VA has verification that payment is due.

Section 322(d)(2) requires the amount of the allowance to be equal to the monthly amount of subsistence allowance that would be payable to a veteran under 38 U.S.C. chapter 31 of this title if the veteran were eligible for and entitled to rehabilitation under

chapter 31. We interpret section 322(d)(2) to refer to the monthly amount of subsistence allowance payable to a veteran for full-time institutional training under chapter 31 because an individual who is participating in USP or IPC training or competition or residing at a USP training center will be doing so on a full-time basis. Furthermore, veterans participating in full-time institutional training under chapter 31 is the most comparable category of recipients of chapter 31 benefits to the category of individuals participating in USP or IPC training or competition or residing at a USP training center. Accordingly, we propose to base the amount of the allowance payable to individuals on the rate paid as a subsistence allowance for a full-time institutional program under chapter 31 of title 38, United States Code. (See 38 U.S.C. 3108(b)).

We propose to allow an individual to be paid for each day of qualified training, competition, or residence at 1/30 of the monthly rate, or on a monthly basis for a continuous month of qualified training, competition, or residence. This recognizes the likely temporal irregularities that will occur with respect to periods of training, competition, or residence, and is consistent with long-standing calculation methods employed by VA to address certain payments and entitlement-charge determinations for partial months under its education and vocational rehabilitation programs. Frequency of payment of the allowance will depend on the timing of the filing of a claim for a given period of time. Because our statutory authority requires that we base the amount of the allowance on the monthly amount of subsistence allowance that would be payable to a veteran under chapter 31, and, under chapter 31, an additional amount is payable to veterans with dependents, we propose to pay an additional amount of allowance to veterans with dependents based on the rate paid as a subsistence allowance for a full-time institutional program under chapter 31 of title 38, United States Code to veterans with dependents.

Incorporation by Reference

In accordance with 5 U.S.C. 552(a) and 1 CFR part 51, we propose to incorporate by reference *IPC's* Classification Code and International Standards, November 2007 edition, at http://www.paralympic.org/export/sites/default/IPC/IPC_Handbook/Section_2/2008_2_Classification_Code6.pdf. This document will be made available to the public via a VA-controlled source for purposes of the final rule. We will

request approval of this incorporation by reference from the Office of the Federal Register. This document for which we are seeking incorporation by reference is available for inspection by appointment (call (202) 461-4902 for appointment) at the Department of Veterans Affairs, Office of Regulation Policy and Management, Room 1063B, 810 Vermont Avenue, NW., Washington DC 20420, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays).

Comment Period

Although under the rulemaking guidelines in Executive Order 12866, VA ordinarily provides a 60-day comment period, the Secretary has determined that there is good cause to limit the public comment period on this proposed rule to 30 days. VA does not expect to receive a large number of comments on this proposed rule because this regulation places minimal burden on affected parties and implements a new benefit. Furthermore, most of the proposed rule's requirements are mandated by 38 U.S.C. 322. Lastly, VA believes that implementation of this regulation is urgent to assist veterans training for the United States Paralympics team. Accordingly, VA has provided that comments must be received within 30 days of publication in the **Federal Register**.

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 an 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 on the private sector.

Paperwork Reduction Act

This document contains two provisions (§ 76.3(a) and § 76.3(b)) constituting a collection of information under the Paperwork Reduction Act (44 U.S.C. 3501-3521) that require approval by the Office of Management and Budget (OMB). The Office of National Veterans Sports Programs and Special Events is developing two new forms for this allowance—an application and a certification of training. ONVSPSE will submit these forms to OMB, along with justification paperwork, as part of the proposed regulation.

OMB assigns control numbers to collections of information it approves. VA may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Comments on the collections of information contained in this proposed rule should be submitted to the Office of Management and Budget, Attention: Desk Officer for the Department of Veterans Affairs, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies sent by mail or hand delivery to the Director, Regulations Management (02REG), Department of Veterans Affairs, 810 Vermont Ave., NW., Room 1068, Washington DC 20420; fax to (202) 273-9026; or through www.Regulations.gov. Comments should indicate that they are submitted in response to "RIN 2900-AN43."

The Department considers comments by the public on proposed collections of information in—

- Evaluating whether the proposed collections of information are necessary for the proper performance of the functions of the Department, including whether the information will have practical utility;
- Evaluating the accuracy of the Department's estimate of the burden of the proposed collections of information, including the validity of the methodology and assumptions used;
- Enhancing the quality, usefulness, and clarity of the information to be collected; and
- Minimizing the burden of the collections of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

The proposed addition of 38 CFR Part 76 contains collections of information under the Paperwork Reduction Act for which we are requesting approval by OMB. These collections of information are described immediately following this paragraph, under their respective titles.

Title: VA Form 0918b, "Application for Monthly Assistance Allowance for Veterans in Connection with the United States Paralympics."

Summary of collection of information: This new collection of information in proposed 38 CFR 76.3(a) is required for VA to administer benefits to veterans in accordance with section 703 of Public Law 110-389. This form is to be completed by veterans who are applying to receive this allowance in accordance

with VA regulations. The application will be used to verify the veteran's mailing address, confirm that he or she has been accepted by the USP to compete in a specific Paralympic sport, and to determine their marital status and number of dependents for the purpose of assessing payment amounts.

Description of need for information and proposed use of information: This collection is necessary in order for the program office to identify allowance recipients and determine payment amounts for veterans authorized to receive this allowance.

Description of likely respondents: Respondents include veterans who have been invited to participate in Paralympic training, competition, or residence at a Paralympic Training Center.

Estimated number of respondents: We expect to have 100 total respondents for VA Form 0918b, which is a one-time collection for each particular veteran for any fiscal year for which Congress has appropriated money for benefits.

Estimated frequency of responses: VA Form 0918b is a one-time collection for each veteran.

Estimated average burden per response: 20 minutes.

Estimated total annual reporting and recordkeeping burden: 2000 reporting hours burden for FY2011.

Recordkeeping burden: 5 hours.

Title: VA Form 0918a, "Certification of United States Paralympics Training Status."

Summary of collection of information: This new collection of information in proposed 38 CFR 76.3(b) is required for VA to administer benefits to veterans in accordance with section 703 of Public Law 110–389. This form is to certify that an eligible veteran has participated in Paralympic training, competition, or residence at a Paralympic Training Center during a specified period of time and has met the requirements necessary for payment of the monthly assistance allowance.

Description of need for information and proposed use of information: This collection is necessary in order for VA to verify that a veteran has indeed participated in qualifying training, competition, or been in residence at a Paralympic Training Center for the relevant period for which the veteran is claiming benefits.

Description of likely respondents: The paralympic coaches of veterans participating in qualifying training, competition, or residence at a Paralympic Training Center.

Estimated number of respondents: We expect to have roughly 100 respondents complete VA Form 0918a monthly or

quarterly for each Fiscal Year in which appropriated funds are available, depending on the veteran's frequency of training, competition, or residence at a Paralympic Training Center.

Estimated frequency of responses: VA Form 0918a is to be submitted monthly or quarterly depending on the veteran's frequency of training, competition, or residence at a Paralympic Training Facility.

Estimated average burden per response: 5 minutes.

Estimated total annual reporting and recordkeeping burden: 2000 reporting hours for each Fiscal Year in which appropriated funds are available. Recordkeeping burden: 25 hours in each Fiscal Year in which appropriated funds are available.

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 the Office of Management and Budget (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 not to be a significant regulatory action under Executive Order 12866.

Regulatory Flexibility Act

The Secretary of Veterans Affairs 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, 5 U.S.C. 601–

612. This proposed rule would primarily affect only individuals and would impose only a minor certification requirement upon the United States Paralympics. Therefore, this proposed amendment is exempt pursuant to 5 U.S.C. 605(b) from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

Catalog of Federal Domestic Assistance

This proposed rule would not affect VA programs listed in the Catalog of Federal Domestic Assistance.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document 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. John R. Gingrich, Chief of Staff, approved this document on July 23, 2010, for publication.

List of Subjects in 38 CFR Part 76

Certification, Day care, Disabled, Eligibility, Individuals with disabilities, Monthly assistance allowance, Overpayment, Oversight, Physically challenged athletes, Service-connected disabilities, Sport event, Travel and transportation expenses, U.S. Paralympics training center, Veterans.

Dated: August 30, 2010.

Robert C. McFetridge,

Director, Regulations Policy and Management, Office of the General Counsel, Department of Veterans Affairs.

For the reasons set forth in the preamble, the Department of Veterans Affairs proposes to amend 38 CFR chapter I to add a new part 76 to read as follows:

PART 76—MONTHLY ASSISTANCE ALLOWANCE FOR VETERANS IN CONNECTION WITH THE UNITED STATES PARALYMPICS

Sec.

76.1 Definitions.

76.2 Assistance allowance.

76.3 Application and certification.

76.4 Amount of allowance.

Authority: 38 U.S.C. 501, 322(d), and as stated in specific sections.

§ 76.1 Definitions.

For purposes of part 76, the following definitions apply:

Disability means a service-connected or nonservice-connected disability which meets the criteria prescribed by the International Paralympic Committee's (IPC) Classification Code and International Standards, November

2007 edition, available at http://www.paralympic.org/export/sites/default/IPC/IPC_Handbook/Section_2/2008_2_Classification_Code6.pdf, and qualifies the veteran for participation in a sport sanctioned by the United States Paralympics.

(Authority: 38 U.S.C. 322(d))

Paralympic Training Center refers to the following locations: the United States Olympic Training Center at Chula Vista, California; the United States Olympic Training Center at Colorado Springs, Colorado; the United States Olympic Training Center at Lake Placid, New York; the Lakeshore Foundation in Birmingham, Alabama; and the University of Central Oklahoma in Edmond, Oklahoma.

(Authority: 38 U.S.C. 322(d))

§ 76.2 Assistance allowance.

(a) VA will pay an allowance to a veteran with a disability who is:

(1) Invited by the United States Paralympics (USP) to compete for a slot on, or selected for, the USP Team for any month or part of any month in which the veteran is training or competing in any event sponsored by the USP or the IPC; or

(2) Residing at a USP training center in connection with any paralympic training or competition for the period certified under § 76.3.

(b) In providing this allowance, VA will periodically assess funding for the allowance. If a periodic assessment reveals that funding is insufficient to pay all applicants, VA will first pay in full veterans with service-connected disabilities, and then pay others in full in the order in which their completed applications are received.

(Authority: 38 U.S.C. 322(d))

§ 76.3 Application and certification.

To receive an allowance—

(a) A veteran must submit a complete application identifying any dependents upon which a higher payable rate of allowance may be based; and

(b) USP must provide certification of the veteran's participation in training or competition sponsored by the USP or the IPC, or residence at a USP training center, for the period for which payment is requested. The certification must specify whether the payment is due for training, competition, or residence, and the dates of the training, competition, or residence for which payment is due.

(Authority: 38 U.S.C. 322(d))

§ 76. Amount of allowance.

The following rules govern the amount of allowance payable to veterans under this section.

(a) Payment will be made at the rate paid for a full-time institutional program under chapter 31 of title 38, United States Code (Chapter 31) that is in effect for a period of certified participation, as prescribed by paragraph (b) of this section. (See 38 CFR 21.260.)

(b) Payment may be made for each day at 1/30 of the monthly rate to veterans who train or compete in USP or IPC sponsored events for each day of training or competition, or to veterans who reside at a USP training center, for each day of residence, or on a monthly basis at the monthly rate to veterans who train or compete continuously for a full month, or to veterans who reside at a USP training center for a full month.

(c) VA will pay the allowance at a rate paid to a veteran with dependents for a full-time Chapter 31 institutional program upon receipt of appropriate documentation that a veteran who qualifies for the allowance has dependents. (See 38 CFR 21.260.)

(Authority: 38 U.S.C. 322(d), 3108)

[FR Doc. 2010-21921 Filed 9-2-10; 8:45 am]

BILLING CODE 8320-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Part 447

[CMS-2238-P2]

RIN 0938-AP67

Medicaid Program; Withdrawal of Determination of Average Manufacturer Price, Multiple Source Drug Definition, and Upper Limits for Multiple Source Drugs

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Proposed rule.

SUMMARY: In this rule, we are proposing to withdraw two provisions from the “Medicaid Program; Prescription Drugs” final rule (referred to hereafter as “AMP final rule”) published in the July 17, 2007 **Federal Register**. The provisions we are proposing to withdraw are as follows: The determination of average manufacturer price (AMP), and the Federal upper limits (FULs) for multiple source drugs. We are also proposing to withdraw the definition of “multiple source drug” as it was revised in the “Medicaid Program; Multiple Source Drug Definition” final rule published in the October 7, 2008 **Federal Register**.

The provisions of the AMP final rule and the definition of multiple source drug that we are proposing to withdraw were challenged in a lawsuit that was filed in November 2007. The challenged regulations have been superseded in significant part by the Patient Protection and Affordable Care Act, as amended by the Health Care and Education Reconciliation Act, and the FAA Air Transportation Modernization and Safety Improvement Act. This document would withdraw the regulatory provisions challenged in the aforementioned litigation.

DATES: To be assured consideration, comments must be received at one of the addresses provided below, no later than 5 p.m. on October 4, 2010.

ADDRESSES: In commenting, please refer to file code CMS-2238-P2. Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission.

You may submit comments in one of four ways (please choose only one of the ways listed):

1. *Electronically.* You may submit electronic comments on this regulation to <http://www.regulations.gov>. Follow the “Submit a comment” instructions.

2. *By regular mail.* You may mail written comments to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS-2238-P2, P.O. Box 8016, Baltimore, MD 21244-8016.

Please allow sufficient time for mailed comments to be received before the close of the comment period.

3. *By express or overnight mail.* You may send written comments to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS-2238-P2, Mail Stop C4-26-05, 7500 Security Boulevard, Baltimore, MD 21244-1850.

4. *By hand or courier.* If you prefer, you may deliver (by hand or courier) your written comments before the close of the comment period to either of the following addresses:

a. For delivery in Washington, DC—Centers for Medicare & Medicaid Services, Department of Health and Human Services, Room 445-G, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201.

(Because access to the interior of the Hubert H. Humphrey Building is not readily available to persons without Federal Government identification, commenters are encouraged to leave their comments in the CMS drop slots located in the main lobby of