

268 (48 U.S.C. 1681 note); sec. 2, Pub. L. 99–643, 100 Stat. 3574 (42 U.S.C. 1382h note).

2. Section 416.201 is amended by removing the definition of “Medical care facility” and adding a definition of “Medical treatment facility” in alphabetical order to read as follows:

**§ 416.201 General definitions and terms used in this subpart.**

\* \* \* \* \*

*Medical treatment facility* means an institution or that part of an institution that is licensed or otherwise approved by a Federal, State, or local government to provide inpatient medical care and services.

\* \* \* \* \*

**§§ 416.201 and 416.211 [Amended]**

3. In 20 CFR part 416, subpart B, remove the words “medical facility” and “medical care facility” each time they appear and add in their place the words “medical treatment facility” in the following places:

a. Section 416.201 in the definitions of “Medical care facility” and “Public emergency shelter for the homeless”; and

b. Section 416.211(b) and (c)(5)(iv).

4. Section 416.212 is amended by revising the introductory text in paragraph (b)(1) to read as follows:

**§ 416.212 Continuation of full benefits in certain cases of medical confinement.**

\* \* \* \* \*

(b) \* \* \*

(1) Subject to eligibility and regular computation rules (see subparts B and D of this part), you are eligible for the benefits payable under section 1611(e)(1)(G) of the Social Security Act for up to 3 full months of medical confinement during which your benefits would otherwise be suspended because of residence in a public institution or reduced because of residence in a public or private institution where Medicaid pays a substantial part (more than 50 percent) of the cost of your care or, if you are a child under age 18, reduced because of residence in a public or private institution which receives payments under a health insurance policy issued by a private provider, or a combination of Medicaid and a health insurance policy issued by a private provider, pay a substantial part (more than 50 percent) of the cost of your care if—

\* \* \* \* \*

**Subpart D—[Amended]**

5. The authority citation for subpart D of part 416 continues to read as follows:

**Authority:** Secs. 702(a)(5), 1611(a), (b), (c), and (e), 1612, 1617, and 1631 of the Social

Security Act (42 U.S.C. 902(a)(5), 1382(a), (b), (c), and (e), 1382a, 1382f, and 1383).

6. Section 416.414 is amended by revising the section heading and paragraph (c) to read as follows:

**§ 416.414 Amount of benefits; eligible individual or eligible couple in a medical treatment facility.**

\* \* \* \* \*

(c) *Definition.* For purposes of this section, a *medical treatment facility* means an institution or that part of an institution that is licensed or otherwise approved by a Federal, State, or local government to provide inpatient medical care and services.

**§ 416.414 [Amended]**

7. In addition to the amendment set forth above, in 20 CFR part 416, subpart D, remove the words “medical facility” and “medical care facility” and add in their place the words “medical treatment facility” in § 416.414(a), (b)(2), and (b)(3)(i) through (ii).

**Subpart E—[Amended]**

8. The authority citation for subpart E of part 416 continues to read as follows:

**Authority:** Secs. 702(a)(5), 1147, 1601, 1602, 1611(c) and (e), and 1631(a)–(d) and (g) of the Social Security Act (42 U.S.C. 902(a)(5), 1320b–17, 1381, 1381a, 1382(c) and (e), and 1383(a)–(d) and (g)); 31 U.S.C. 3720A.

**§ 416.571 [Amended]**

9. In 20 CFR part 416, subpart E, remove the words “medical facility” wherever they appear and add in their place the words “medical treatment facility” in § 416.571.

**Subpart G—[Amended]**

10. The authority citation for subpart G of part 416 continues to read as follows:

**Authority:** Secs. 702(a)(5), 1611, 1612, 1613, 1614, and 1631 of the Social Security Act (42 U.S.C. 902(a)(5), 1382, 1382a, 1382b, 1382c, and 1383); sec. 211, Pub. L. 93–66, 87 Stat. 154 (42 U.S.C. 1382 note).

11. Section 416.708 is amended by revising paragraph (k) to read as follows:

**§ 416.708 What you must report.**

\* \* \* \* \*

(k) *Admission to or discharge from a medical treatment facility, public institution, or private institution.* You must report to us your admission to or discharge from—

(1) A medical treatment facility; or  
(2) A public institution (defined in § 416.201); or

(3) A private institution. *Private institution* means an institution as defined in § 416.201 which is not

administered by or the responsibility of a governmental unit.

\* \* \* \* \*

**Subpart K—[Amended]**

12. The authority citation for subpart K of part 416 continues to read as follows:

**Authority:** Secs. 702(a)(5), 1602, 1611, 1612, 1613, 1614(f), 1621, 1631, and 1633 of the Social Security Act (42 U.S.C. 902(a)(5), 1381a, 1382, 1382a, 1382b, 1382c(f), 1382j, 1383 and 1383b); sec. 211, Pub. L. 93–66, 87 Stat. 154 (42 U.S.C. 1382 note).

**§§ 416.1149, 416.1165 and 416.1167 [Amended]**

13. In 20 CFR part 416, subpart K, remove the words “medical facility” and “medical care facility” and add in their place the words “medical treatment facility” in the following places:

a. Section 416.1149(a)(1) and (c)(1)(i) through (ii);

b. Section 416.1165(g)(6) and (i)(1);

and

c. Section 416.1167(a)(2).

**Subpart L—[Amended]**

14. The authority citation for subpart L of part 416 continues to read as follows:

**Authority:** Secs. 702(a)(5), 1602, 1611, 1612, 1613, 1614(f), 1621, 1631 and 1633 of the Social Security Act (42 U.S.C. 902(a)(5), 1381a, 1382, 1382a, 1382b, 1382c(f), 1382j, 1383 and 1383b); sec. 211, Pub. L. 93–66, 87 Stat. 154 (42 U.S.C. 1382 note).

**§ 416.1202 [Amended]**

15. In 20 CFR part 416, subpart L, remove the words “medical facility” and “medical care facility” and add in their place the words “medical treatment facility” in § 416.1202(b)(2)(i).

[FR Doc. E7–5134 Filed 3–23–07; 8:45 am]

BILLING CODE 4191–02–P

**DEPARTMENT OF VETERANS AFFAIRS**

**38 CFR Parts 19 and 20**

**RIN 2900–AM49**

**Supplemental Statement of the Case**

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Proposed rule.

**SUMMARY:** The Department of Veterans Affairs (VA) proposes to amend its regulations regarding the time limit for filing a response to a Supplemental Statement of the Case in appeals to the Board of Veterans' Appeals (Board). We propose to change the response period

from 60 days to 30 days. The purpose of this change is to improve efficiency in the appeals process and reduce the time that it takes to resolve appeals while still providing appellants with a reasonable period to respond to a Supplemental Statement of the Case.

**DATES:** Comments must be received by VA on or before May 25, 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 Avenue, 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-AM49—Supplemental Statement of the Case." 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 through the Federal Docket Management System (FDMS) at <http://www.Regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** Steven L. Keller, Senior Deputy Vice Chairman, Board of Veterans' Appeals (012), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 565-5978.

**SUPPLEMENTARY INFORMATION:** The Board is an administrative body within VA that decides appeals from denials by Agencies of Original Jurisdiction (AOJs) of claims for veterans' benefits, as well as occasional cases of original jurisdiction. The Board is under the administrative control and supervision of a Chairman who is directly responsible to the Secretary of Veterans Affairs. 38 U.S.C. 7101(a). The Board's Appeals Regulations and Rules of Practice are found at 38 CFR parts 19 and 20.

An appeal to the Board is initiated by a timely filed Notice of Disagreement and completed (also called "perfected") by a timely filed Substantive Appeal after a Statement of the Case is furnished. 38 U.S.C. 7105(a); 38 CFR 20.200. Under applicable law, the AOJ provides notice of any decision made by VA affecting the payment of benefits or the granting of relief. 38 U.S.C. 5104; 38 CFR 3.103(b)(1). The claimant has one year from the date of mailing that notice to file a Notice of Disagreement. 38 U.S.C. 7105(b)(1); 38 CFR 20.302(a). Following receipt of a timely Notice of

Disagreement, the AOJ will prepare a Statement of the Case, which must include: (1) A summary of the evidence in the case pertinent to the issue or issues with which disagreement has been expressed; (2) a citation to pertinent laws and regulations and a discussion of how such laws and regulations affected the AOJ's decision; and (3) the AOJ decision on each issue and a summary of the reasons for such decision. 38 U.S.C. 7105(d)(1); 38 CFR 19.29. Except in cases of simultaneously contested claims, the claimant has 60 days to file a Substantive Appeal in response to the Statement of the Case or the remainder of the one-year period from the date of notice of the decision being appealed, whichever period ends later. 38 U.S.C. 7105(d)(3); 38 CFR 20.302(b)(1). In simultaneously contested claims, a Substantive Appeal and any response to a Supplemental Statement of the Case must be filed within 30 days from the date of mailing of the Statement of the Case and Supplemental Statement of the Case, respectively. 38 U.S.C. 7105, 7105A(b); 38 CFR 20.501(b) and (c).

Often, the AOJ receives additional evidence in support of the appeal after the Statement of the Case was issued but before the appeal is certified for appellate review and transferred to the Board. If the additional evidence is new (i.e., not duplicative of evidence previously of record that was discussed in the Statement of the Case or a prior Supplemental Statement of the Case) and relevant to the appeal, the AOJ will prepare a document known as a Supplemental Statement of the Case and furnish a copy to the appellant and his or her representative, if any. 38 CFR 19.31(b)(1), 19.37(a). The purpose of a Supplemental Statement of the Case is to inform the appellant of any material changes in, or additions to, the information included in the Statement of the Case or any prior Supplemental Statement of the Case. 38 CFR 19.31(a).

A Supplemental Statement of the Case will also be furnished if the AOJ discovers a material defect in the Statement of the Case or a prior Supplemental Statement of the Case, or determines that for any other reason the Statement of the Case or a prior Supplemental Statement of the Case is inadequate. 38 CFR 19.31(b). Additionally, if an appeal is remanded by the Board to the AOJ and a claim cannot be granted on remand, a Supplemental Statement of the Case is generally provided to the appellant regarding that issue. 38 CFR 19.31(c), 19.38. Thereafter, the case is returned to the Board.

Currently, 38 CFR 19.38, 20.302(c), and 20.303 provide information regarding the Supplemental Statement of the Case. These regulations indicate that appellants are allowed a period of 60 days from the date of mailing of the Supplemental Statement of the Case to submit a response. Moreover, under 38 CFR 20.303, an extension of the 60-day period for responding to the Supplemental Statement of the Case, when such a response is required, may be granted for good cause. We propose to change the 60-day period in each of these regulations to 30 days, to help expedite the appeals process while still providing appellants with a reasonable period to respond. We believe that the beneficial effects of the amendment will significantly outweigh any potential adverse effects on appellants and we are soliciting comments on this point.

Unlike the Statement of the Case, which must contain specific information about the evidence and issues in the case, the applicable laws and regulations, and the reasons for each determination, a Supplemental Statement of the Case is not required to contain the same degree of detail. As its name implies, a Supplemental Statement of the Case is a supplement to the Statement of the Case. The document is intended to inform the appellant of any material changes to, or additions to, the information included in the Statement of the Case. 38 CFR 19.31(a). In no case will a Supplemental Statement of the Case be used to announce AOJ decisions on issues that were not previously addressed in a Statement of the Case. 38 CFR 19.31(a). Therefore, due to the limited purpose of a Supplemental Statement of the Case, less time should be needed to respond to a Supplemental Statement of the Case as compared to the Statement of the Case. In addition, under this proposed rule change, an extension of the 30-day period for responding to a Supplemental Statement of the Case may still be granted for good cause. 38 CFR 20.303.

Significantly, provided that a Substantive Appeal has been timely filed in accordance with 38 CFR 20.302(b), a response to a Supplemental Statement of the Case is strictly optional and is not required to perfect an appeal. 38 CFR 20.302(c). If there is no response to the Supplemental Statement of the Case within the allowed period, any remaining processing of the case can be completed and the appeal can be certified and transferred to the Board. In practice, VA adjudicators will hold the case for the full response period to allow the appellant every opportunity to respond to the Supplemental Statement of the Case. By reducing the response

period from 60 days to 30 days, VA can allow the case to move forward faster than under current regulations, thus helping expedite the adjudication of appealed cases. In addition to the 30-day period to respond to the Supplemental Statement of the Case, once his or her appeal has been certified and transferred to the Board, the appellant typically still has 90 days to submit further evidence. 38 CFR 20.1304(a). Although 38 CFR 20.1304(a) states that the appellant has 90 days or until the Board promulgates a decision to submit evidence, as a practical matter, with the exception of a limited class of cases, such as cases that were advanced on the Board's docket pursuant to 38 U.S.C. 7107(a), the Board generally does not decide cases until after the 90-day period has passed. This effectively provides most appellants with the full 90 days to submit additional evidence. Moreover, under § 20.1304(b), even after the 90-day period expires an appellant may still move to submit additional evidence if he or she can demonstrate good cause for the delayed submission.

This proposed rule would not affect the statutorily provided 60-day period to respond to a Statement of the Case. Rather, this proposed rule change is confined to the Supplemental Statement of the Case, which is a document created solely by VA regulation to describe VA's AOJ activity when, most commonly, after a Statement of the Case was issued but before the appeal is certified and transferred to the Board, non-duplicative evidence is received that is relevant to the issue or issues on appeal, or when the AOJ plans to return a case to the Board following a Board remand for further development.

For the reasons stated above, we propose to change the 60 day period to respond to a Supplemental Statement of the Case to 30 days in 38 CFR 19.38, 20.302(c), and 20.303.

#### **Paperwork Reduction Act**

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

#### **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, 5 U.S.C. 601–612. By reducing the period allowed for submitting an optional response to a Supplemental Statement of the Case to 30 days, this proposed rule would affect claimants for VA benefits who appeal to

the Board. It may also affect a few small organizations appealing to the Board, including attorneys appealing the cancellation of their accreditation by the VA General Counsel and accredited attorneys appealing decisions affecting payment of their fees out of past-due benefits awarded to VA claimants. This proposed rule may also affect a few small governmental jurisdictions appealing to the Board, such as state agencies appealing VA decisions on per diem payments for services provided to veterans in state homes.

However, reducing the period permitted for submitting an optional response to a Supplemental Statement of the Case would not have a significant economic impact on a substantial number of these small entities. Rather, it would expedite the processing of their appeals to the Board. Therefore, pursuant to 5 U.S.C. 605(b), this proposed rule is exempt from the initial and final regulatory flexibility analysis requirement of 5 U.S.C. 603 and 604.

#### **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.

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

#### **Catalog of Federal Domestic Assistance Numbers**

The Catalog of Federal Domestic Assistance program numbers and titles for this proposal are 64.100, Automobiles and Adaptive Equipment for Certain Disabled Veterans and Members of the Armed Forces; 64.101, Burial Expenses Allowance for Veterans; 64.102, Compensation for Service-Connected Deaths for Veterans' Dependents; 64.103, Life Insurance for Veterans; 64.104, Pension for Non-Service-Connected Disability for Veterans; 64.105, Pension to Veterans Surviving Spouses, and Children; 64.106, Specially Adapted Housing for Disabled Veterans; 64.109, Veterans Compensation for Service-Connected Disability; 64.110, Veterans Dependency and Indemnity Compensation for Service-Connected Death; 64.114, Veterans Housing-Guaranteed and Insured Loans; 64.115, Veterans Information and Assistance; 64.116, Vocational Rehabilitation for Disabled Veterans; 64.117, Survivors and Dependents Educational Assistance; 64.118, Veterans Housing-Direct Loans for Certain Disabled Veterans; 64.119, Veterans Housing-Manufactured Home Loans; 64.120, Post-Vietnam Era Veterans' Educational Assistance; 64.124, All-Volunteer Force Educational Assistance; 64.125, Vocational and Educational Counseling for Servicemembers and Veterans; 64.126, Native American Veteran Direct Loan Program; 64.127, Monthly Allowance for Children of Vietnam Veterans Born with Spina Bifida; and 64.128, Vocational Training and Rehabilitation for Vietnam Veterans' Children with Spina Bifida or Other Covered Birth Defects.

#### **List of Subjects in 38 CFR Parts 19 and 20**

Administrative practice and procedure, Claims, Veterans.

Approved: November 30, 2006.

**Gordon H. Mansfield,**

*Deputy Secretary of Veterans Affairs.*

For the reasons set forth in the preamble, VA proposes to amend 38 CFR parts 19 and 20 as follows:

#### **PART 19—BOARD OF VETERANS' APPEALS: APPEALS REGULATIONS**

1. The authority citation for part 19 continues to read as follows:

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

#### **Subpart B—Appeals Processing by Agency of Original Jurisdiction**

##### **§ 19.38 [Amended]**

2. Section 19.38 is amended by removing “60-day” and adding, in its place, “30-day”.

#### **PART 20—BOARD OF VETERANS' APPEALS: RULES OF PRACTICE**

3. The authority citation for part 20 continues to read as follows:

**Authority:** 38 U.S.C. 501(a) and as noted in specific sections.

#### **Subpart D—Filing**

##### **§ 20.302 [Amended]**

4. Section 20.302(c) is amended by removing “60” and adding, in its place, “30”.

##### **§ 20.303 [Amended]**

5. Section 20.303 is amended by removing “or the 60-day period for responding to a Supplemental Statement of the Case” and adding, in its place, “or the 30-day period for responding to a Supplemental Statement of the Case”.

[FR Doc. E7-5435 Filed 3-23-07; 8:45 am]

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#### **ENVIRONMENTAL PROTECTION AGENCY**

#### **40 CFR Part 272**

[EPA-R02-RCRA-2006-0518; FRL-8278-1

#### **New York: Incorporation by Reference of State Hazardous Waste Management Program**

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

**ACTION:** Proposed rule.

**SUMMARY:** The EPA proposes to revise the codification of New York's authorized hazardous waste program which is set forth in the regulations entitled “Approved State Hazardous Waste Management Programs”, New

York's authorized hazardous waste program. EPA will incorporate by reference into the Code of Federal Regulations (CFR) those provisions of the State regulations that are authorized and that EPA will enforce under the Solid Waste Disposal Act, as amended and commonly referred to as the Resource Conservative and Recovery Act (RCRA). In the “Rules and Regulations” section of this **Federal Register**, the EPA is codifying and incorporating by reference the State's hazardous waste program as an immediate final rule. EPA did not make a proposal prior to the immediate final rule because we believe these actions are not controversial and do not expect comments that oppose them. We have explained the reasons for this codification and incorporation by reference in the preamble to the immediate final rule. Unless we get written comments which oppose this incorporation by reference during the comment period, the immediate final rule will become effective on the date indicated, and we will not take further action on this proposal. If we get comments that oppose these actions, we will withdraw the immediate final rule and it will not take effect. We will then respond to public comments in a later final rule based on this proposal. You may not have another opportunity for comment. If you want to comment on this action, you must do so at this time.

**DATES:** Comments must be received on or before April 25, 2007.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R02-RCRA-2006-0518, by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

- *E-mail:* [infurna.michael@epa.gov](mailto:infurna.michael@epa.gov).

- *Fax:* (212) 637-3056.

- *Mail:* Send written comments to Michael Infurna, Division of Environmental Planning and Protection, EPA, Region 2, 290 Broadway, 22nd Floor, New York, NY 10007.

- *Hand Delivery or Courier:* Deliver your comments to Michael Infurna, Division of Environmental Planning and Protection, EPA, Region 2, 290 Broadway, 22nd Floor, New York, NY 10007. Such deliveries are only accepted during the Regional Office's normal hours of operation. The public is advised to call in advance to verify the business hours. Special arrangements should be made for deliveries of boxed information.

**Instructions:** Direct your comments to Docket ID No. EPA-R02-RCRA-2006-0518. EPA's policy is that all comments

received will be included in the public docket without change, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through [www.regulations.gov](http://www.regulations.gov) or e-mail. The Federal [www.regulations.gov](http://www.regulations.gov) Web site is an “anonymous access” system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through [www.regulations.gov](http://www.regulations.gov), your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties, and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters or any form of encryption, and be free of any defects or viruses. (For additional information about EPA's public docket, visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>).  
Docket: All documents in the docket are listed in the [www.regulations.gov](http://www.regulations.gov) index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available on in hard copy. Publicly available docket materials are available either electronically in [www.regulations.gov](http://www.regulations.gov) or in hard copy. You can inspect the records related to this codification effort in the EPA Region 2 Library by appointment only. To make an appointment please call (212) 637-3185.

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

Michael Infurna, Division of Environmental Planning and Protection, EPA Region 2, 290 Broadway, 22nd floor, New York, NY 10007; telephone number (212) 637-4177; fax number: (212) 637-437; e-mail address: [infurna.michael@epa.gov](mailto:infurna.michael@epa.gov).

**SUPPLEMENTARY INFORMATION:** For additional information please see the immediate final rule published in the