

**INFORMATION CONTACT** section of this document.

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## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 54

[REG-120476-07]

**RIN 1545-BG71**

#### **Employer Comparable Contributions to Health Savings Accounts Under Section 4980G, and Requirement of Return for Filing of the Excise Tax Under Section 4980B, 4980D, 4980E or 4980G; Hearing**

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Cancellation of notice of public hearing on proposed rulemaking.

**SUMMARY:** This document cancels a public hearing on proposed rulemaking providing guidance on employer comparable contributions to Health Savings Accounts (HSAs) under section 4980G of the Internal Revenue Code as amended by sections 302, 305, and 306 of the Tax Relief and Health Care Act of 2006. The proposed regulations also provide guidance relating to the requirement of a return to accompany payment of the excise tax under section 4980B, 4980D, 4980E or 4980G of the Code and the time for filing that return. These proposed regulations would affect employers that contribute to employees' HSAs and Archer MSAs, employers or employee organizations that sponsor a group health plan, and certain third parties such as insurance companies or HMOs or third-party administrators who are responsible for providing benefits under the plan.

**DATES:** The public hearing, originally scheduled for October 30, 2008, at 10 a.m., is cancelled.

**FOR FURTHER INFORMATION CONTACT:** Richard A. Hurst of the Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration), at [Richard.A.Hurst@irs.counsel.treas.gov](mailto:Richard.A.Hurst@irs.counsel.treas.gov).

**SUPPLEMENTARY INFORMATION:** A notice of public hearing that appeared in the **Federal Register** on Wednesday, July 16, 2008 (73 FR 40793), announced that a public hearing was scheduled for

October 30, 2008, at 10 a.m., in room 2116, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. The subjects of the public hearing are under sections 4980B, 4980D, 4980E and 4980G of the Internal Revenue Code.

The public comment period for these regulations expired on October 14, 2008. Outlines of topics to be discussed at the hearing were due on October 13, 2008. The notice of proposed rulemaking and notice of public hearing instructed those interested in testifying at the public hearing to submit an outline of the topics to be addressed. As of Wednesday, October 15, 2008, no one has requested to speak. Therefore, the public hearing scheduled for October 30, 2008, is cancelled.

**LaNita Van Dyke,**

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## DEPARTMENT OF VETERANS AFFAIRS

### 38 CFR Part 17

**RIN 2900-AM99**

#### **Civilian Health and Medical Program of the Department of Veterans Affairs (CHAMPVA): Preauthorization for Durable Medical Equipment**

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Proposed rule.

**SUMMARY:** This document proposes to amend the Department of Veterans Affairs (VA) regulations for the Civilian Health and Medical Program of the Department of Veterans Affairs (CHAMPVA) related to preauthorization requirements that apply to the purchase or rental of durable medical equipment. It would increase from \$300 to \$2,000 the cost of purchase or rental above which preauthorization would be required. This is intended to remove from the CHAMPVA claims process an administratively inefficient requirement.

**DATES:** Comments must be received on or before December 29, 2008.

**ADDRESSES:** Written comments may be submitted through <http://www.Regulations.gov>; by mail or hand-delivery to the Director, Regulations Management (02REG1), 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-AM99—CHAMPVA: Preauthorization for DME." 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 may be viewed online through the Federal Docket Management System (FDMS) at <http://www.Regulations.gov>.

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

Richard M. Trabert, Policy Management Division, VA Health Administration Center, 3773 Cherry Creek Drive North, Denver, CO 80246-9061; (303) 331-7549. (This is not a toll-free number.)

**SUPPLEMENTARY INFORMATION:** This document proposes to amend VA's medical regulations in 38 CFR part 17 concerning CHAMPVA. CHAMPVA is a VA medical benefits program for (1) spouses and children of veterans who have a permanent and total service-connected disability and (2) surviving spouses and children of veterans who died as a result of a service-connected disability or while rated permanently and totally disabled from a service-connected disability, or who died in the active military, naval, or air service in the line of duty. CHAMPVA is authorized at 38 U.S.C. 1781. To be eligible for CHAMPVA benefits, among other requirements, the spouses, surviving spouses, and children may not be otherwise eligible for medical care under 10 U.S.C. chapter 55 (authorizing TRICARE, medical care that is furnished to certain dependents and survivors of active duty and retired members of the Armed Forces). Needed medical care is largely provided to CHAMPVA beneficiaries through non-VA providers.

Durable medical equipment (DME) is included among the health care items that are available to CHAMPVA beneficiaries, provided the DME is medically necessary and appropriate for the care of the CHAMPVA beneficiary's condition. The determination of medical necessity and appropriateness is made by appropriate VA officials. For purposes of this regulation, DME is generally equipment or supply that: (1) Can withstand repeated use; (2) is primarily and customarily to serve a medical purpose; (3) is medically necessary for the treatment of a covered illness or injury; and (4) is not otherwise excluded by regulation from CHAMPVA coverage.

To ensure that DME purchases and rental are medically necessary and