

highest percentage of products the purchaser intends to produce or have produced from the sale. Purchasers seeking a change of index at time of award must substantiate the need for an alternative index by providing the Contracting Officer with a written request that includes a list of products by volume the purchaser intends to produce or expects will be produced from the timber on that sale. In the event a mutual agreement to modify a contract to include an alternative index is not reached at time of contract execution, the index specified in the sample contract shall apply.

(3) A market-related contract term addition provision shall not be included in contracts where the primary management objective requires prompt removal of the timber, such as, timber is subject to rapid deterioration, timber is in a wildland-urban interface area, or hazard trees adjacent to developed sites.

\* \* \* \* \*

(c) \* \* \*

(1) Additional contract time may not be granted for those portions of the contract:

(i) With a required completion date;  
(ii) Where the Forest Service determines that the timber is in need of urgent removal;  
(iii) Where timber deterioration or resource damage may result from delay; or

(iv) Where included timber is designated by diameter and delay may change the treatment as a result of trees growing into or out of the specified diameter range(s).

(2) For each additional consecutive quarter in which a contract qualifies for market-related contract term addition, the Forest Service will, upon the purchaser's written request, add an additional 3 months during the normal operating season to the contract, except that no single 3-month addition shall extend the term of a contract by more than 1 year.

(3) No more than 3 years shall be added to a contract's term by market-related contract term addition unless the following conditions are met:

(i) The sale was awarded after December 31, 2006;

(ii) A drastic reduction in wood product prices occurred in at least ten of twelve consecutive quarters during the contract term, but not including the quarter in which the contract was awarded; and

(4) For each qualifying quarter meeting the criteria in paragraph (c)(3)(ii) of this section, the Forest Service will, upon the purchaser's written request, add an additional 3

months during the normal operating season to the contract, except no single 3-month addition shall extend the term of a contract by more than 1 year.

(5) In no event shall a revised contract term exceed 10 years as a result of market-related contract term addition.

\* \* \* \* \*

Dated: October 24, 2008.

**Mark Rey,**

*Under Secretary, Natural Resources and Environment.*

[FR Doc. E8-26203 Filed 11-3-08; 8:45 am]

**BILLING CODE 3410-11-P**

## **DEPARTMENT OF VETERANS AFFAIRS**

### **38 CFR Part 17**

**RIN 2900-AM22**

#### **Civilian Health and Medical Program of the Department of Veterans Affairs (CHAMPVA): Expansion of Benefit Coverage for Prostheses and Enuretic (Bed-Wetting) Devices; Miscellaneous Provisions**

**AGENCY:** Department of Veterans Affairs.  
**ACTION:** Final rule.

**SUMMARY:** This document adopts a final rule amending the Department of Veterans Affairs (VA) medical regulations for the Civilian Health and Medical Program of the Department of Veterans Affairs (CHAMPVA) to expand benefits by covering any non-dental prostheses determined medically necessary for the treatment of certain medical conditions and by removing the exclusion from coverage of enuretic (bed-wetting) devices. In addition, this final rule makes changes in delegations of authority, technical changes, and nonsubstantive changes for purposes of clarity in VA's regulations governing CHAMPVA.

**DATES:** *Effective Date:* This final rule is effective December 4, 2008.

**FOR FURTHER INFORMATION CONTACT:** Richard M. Trabert, Policy Management Division, VA Health Administration Center, P.O. Box 65020, Denver, CO 80206-9020; (303) 331-7549. (This is not a toll-free number.)

**SUPPLEMENTARY INFORMATION:** In a document published in the **Federal Register** on February 19, 2008 (73 FR 9068), VA proposed to amend its medical regulations at 38 CFR part 17 concerning CHAMPVA benefits. Specifically, it proposed to extend prosthetic coverage to any prostheses (other than dental prostheses) considered medically necessary because

of significant conditions resulting from trauma, congenital anomalies, or disease. Also, it proposed to remove the exclusion of enuretic (bed-wetting) devices (alarms) but would continue to exclude enuretic conditioning programs. Additionally, the document proposed to amend the delegations of authority in 38 CFR 17.275, Claim filing deadline, and 38 CFR 17.276, Appeal/review process. Finally, the document proposed to make technical and other nonsubstantive changes for purposes of clarity, including to conform with Public Law 107-135, which redesignated the statutory section authorizing the CHAMPVA program as 38 U.S.C. 1781 (formerly 38 U.S.C. 1713). VA provided a 60-day comment period that ended April 19, 2008. VA received no comments. Based on the rationale set forth in the proposed rule and in this document, we are adopting the provisions of the proposed rule as a final rule without change, except for a technical change regarding the authority citation for 38 CFR part 17.

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

#### **Paperwork Reduction Act of 1995**

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

#### **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 rule as a "significant regulatory action" requiring review by 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 government 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 final 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 final 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. Individuals eligible for CHAMPVA benefits are widely dispersed geographically and thus services provided to them would not have a significant impact on any small entity. Therefore, pursuant to 5 U.S.C. 605(b), this final rule is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

### Catalog of Federal Domestic Assistance

This final rule affects the Civilian Health and Medical Program of the Department of Veterans Affairs (CHAMPVA), for which there is no Catalog of Federal Domestic Assistance program number.

### List of Subjects in 38 CFR Part 17

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 facilities, Health professionals, Health records, Homeless, Medical and dental schools, Medical devices, Medical research, Mental health programs, Nursing homes, Philippines, Reporting and recordkeeping requirements, Travel and transportation expenses, and Veterans.

Approved: October 28, 2008.

**Gordon H. Mansfield,**

*Deputy Secretary of Veterans Affairs.*

■ For the reasons stated above, VA amends 38 CFR part 17 as follows:

## PART 17—MEDICAL

■ 1. Revise the authority citation for part 17 to read as follows:

**Authority:** 38 U.S.C. 501, 1721, and as noted in specific sections.

■ 2. Amend § 17.270 by:

- a. In paragraph (a), removing “1713” and adding, in its place, “1781”.
- b. In paragraph (b), removing “this section” and adding, in its place, “§§ 17.270 through 17.278”, removing “fiscal” year refers to October 1”, and adding, in its place, “fiscal year” refers to October 1”.
- c. Revising the authority citation.

The revision reads as follows:

### § 17.270 General provisions.

\* \* \* \* \*

(Authority: 38 U.S.C. 501, 1781)

■ 3. Amend § 17.271 by revising the authority citations after paragraph (a) and at the end of the section to read as follows:

### § 17.271 Eligibility.

(a) \* \* \*

(Authority: 38 U.S.C. 501, 1781)

\* \* \* \* \*

(Authority: 38 U.S.C. 501, 1781)

■ 4. Amend § 17.272 by:

- a. Redesignating paragraphs (a)(44)(i) through (a)(44)(iv) as paragraphs (a)(44)(ii)(A) through (D), respectively.
- b. Redesignating paragraph (a)(44)(v) as new paragraph (a)(44)(i).
- c. Adding paragraphs (a)(44)(ii) introductory text and (a)(44)(ii)(E).
- d. Revising paragraph (a)(52) and the authority citation.

The additions and revisions read as follows:

### § 17.272 Benefits limitations/exclusions.

(a) \* \* \*

(44) \* \* \*

(ii) Any prostheses, other than dental prostheses, determined to be medically necessary because of significant conditions resulting from trauma, congenital anomalies, or disease, including, but not limited to:

\* \* \* \* \*

(E) Ears, noses, and fingers.

\* \* \* \* \*

(52) Enuretic (bed-wetting) conditioning programs.

\* \* \* \* \*

(Authority: 38 U.S.C. 501, 1781)

■ 5. Amend § 17.273 by revising the authority citation to read as follows:

### § 17.273 Preauthorization.

\* \* \* \* \*

(Authority: 38 U.S.C. 501, 1781)

■ 6. Amend § 17.274 by revising the authority citation to read as follows:

### § 17.274 Cost sharing.

\* \* \* \* \*

(Authority: 38 U.S.C. 501, 1781)

■ 7. Amend § 17.275 by:

■ a. In paragraph (b), removing “Center Director” and adding, in its place, “Director, Health Administration Center, or his or her designee”; and removing “paragraph (a) if” and adding, in its place, “paragraph (a) of this section if”.

■ b. Adding an authority citation at the end of the section.

The addition reads as follows:

### § 17.275 Claim filing deadline.

\* \* \* \* \*

(Authority: 38 U.S.C. 501, 1781)

■ 8. Amend § 17.276 by:

■ a. Removing “Center Director” and “Director” each time they appear and adding, in their place, “Director, Health Administration Center, or his or her designee”.

■ b. Revising the authority citation.

■ c. In the Note, removing “20 CFR” and adding, in its place “38 CFR”.

The revision reads as follows:

### § 17.276 Appeal/review process.

\* \* \* \* \*

(Authority: 38 U.S.C. 501, 1781)

\* \* \* \* \*

■ 9. Amend § 17.277 by adding an authority citation to read as follows:

### § 17.277 Third-party liability/medical care cost recovery.

\* \* \* \* \*

(Authority: 28 U.S.C. 2651; 38 U.S.C. 501, 1781)

■ 10. Amend § 17.278 by adding an authority citation to read as follows:

### § 17.278 Confidentiality of records.

\* \* \* \* \*

(Authority: 5 U.S.C. 552, 552a; 38 U.S.C. 501, 1781, 5701, 7332)

[FR Doc. E8–26245 Filed 11–3–08; 8:45 am]

BILLING CODE 8320–01–P