



DEPARTMENT OF VETERANS AFFAIRS

8320-01

38 CFR Part 17

RIN 2900-AP87

Extension of Pharmacy Copayments for Medications

AGENCY: Department of Veterans Affairs.

ACTION: Resolution of interim final rule.

SUMMARY: The Department of Veterans Affairs (VA) notifies the public that an interim final rule freezing medication copayments for veterans in priority groups 2 through 8, published on December 7, 2016, was superseded by a final rule amending its regulations concerning copayments that published on December 12, 2016. The interim final rule received no public comments.

DATES: Effective Date: This rule is effective on [insert date of publication in the FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Bridget Souza, Office of Community Care (10D), Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 382-2537.
(This is not a toll-free number.)

SUPPLEMENTARY INFORMATION:

On December 7, 2016, VA published an interim final rule, RIN 2900-AP87- Copayments for Medications in 2017 (AP87), at 81 FR 88120, extending the

medication copayment freeze through February 26, 2017. We did so in anticipation of publishing a separate final rule, RIN 2900-AP35-Copayments for Medications Beginning January 1, 2017 (AP35), which published December 12, 2016, at 81 FR 89390, implementing a tiered medication copayment regime with an effective date of February 27, 2017. Failure to extend the medication copayment freeze with the interim final rule would have subjected affected veterans to a short term, but significant, increase in the amount of medication copayments based on the prescription drug component of the Medical Consumer Price Index (CPI-P) per 38 CFR 17.110(b)(1)(iii). In addition, affected veterans in priority groups 2 through 6 would have been subject to an increase in the annual cap on the total amount of copayments.

The interim final rule, AP87, provided a 60-day period during which the public could submit comments. The comment period closed on February 6, 2017, and we received no comments.

As previously mentioned, on December 12, 2016, VA published a final rule, AP35, at 81 FR 89390. This final rule established a tiered medication copayment system, effective February 27, 2017. Under AP35, the new regulatory formula, focuses on the type of medication being prescribed and removes the automatic escalator provision, meaning that changes in copayments would only occur through subsequent rulemakings. Veterans exempt by law from copayments under 38 U.S.C. 1722A(a)(3) continue to be exempt. Three classes of medications were established for copayment purposes: Tier 1 medications, Tier 2 medications, and Tier 3 medications. Tiers 1 and 2 includes

multi-source medications, a term that is defined in § 17.110(b)(1)(iv). Tier 3 includes medications that retain patent protection and exclusivity and are not multi-source medications. Copayment amounts vary depending upon the Tier in which the medication is classified. A 30-day or less supply of Tier 1 medications has a copayment of \$5. For Tier 2 medications, the copayment is \$8, and for Tier 3 medications, the copayment is \$11. The rule also changed the annual cap for medication copayments, lowering the cap to \$700 for all veterans who are required to pay medication copayments.

Paperwork Reduction Act

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

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. Gina S. Farrisee, Deputy Chief of Staff, Department of Veterans Affairs, approved this document on April 28, 2017, for publication.

Dated: May 2, 2017.

Janet Coleman
Chief,
Office of Regulation Policy & Management,
Office of the Secretary,
Department of Veterans Affairs.

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